

PRODUCER AGREEMENT
For Individual Products – Under Age 65



This Producer Agreement (this "Agreement") is made this _____ day of _____, 2011 by and between AvMed, Inc. d/b/a AvMed Health Plans, a Florida not-for-profit corporation ("AvMed") and _____, an individual ("Individual Producer"). (Individual Producer is referred to herein as "Producer"). AvMed and Producer are sometimes referred to in this Agreement individually as the "Party" and collectively as the "Parties".

Whereas, AvMed offers individual health policies to eligible individuals and their eligible dependents residing in Florida (the "Individual Product"); and

Whereas, Producer and AvMed desire to enter into this Agreement;

Now therefore, in consideration of the foregoing promises and the mutual covenants herein contained and intending to be legally bound hereby, the Parties agree as follows:

1. Authorization to Sell the Individual Product. Producer is hereby authorized by AvMed to present the Individual Product to individuals, provided that: (i) Producer and such presentation complies with the terms and conditions of this Agreement; and (ii) Producer informs the individual that he or she is not accepted for coverage by AvMed unless and until AvMed has so notified the individual that he or she is accepted for coverage, and AvMed has notified individual that the premium rates offered to individual are final. Producer is authorized to sell the Individual Product to individuals where AvMed is authorized to sell the individual product.

Producer shall have no authority other than as expressly granted herein, including but not limited to, no authority to: make or discharge contracts for AvMed; grant permits; reject or accept individuals solicited by Producer; make endorsements; incur liability on behalf of AvMed; waive, alter or amend the performance, provisions, terms or conditions of any contract for AvMed; or accept renewal premiums or bind AvMed in any way. Producer is not authorized to make any payment to any party in connection with this Agreement unless such payment is first authorized by AvMed in writing.

"Subscriber" shall mean an eligible individual who has entered into an individual contract with AvMed to provide non-group health care benefits to themselves and their eligible dependents.

2. Duty of Producer:

- 2.1 Presenting the Individual Product. Producer shall present the Individual Product to individuals in the best light possible, in a factually accurate manner and only in accordance with AvMed quote submission guidelines in effect at the time the quote is presented. Producer shall not present the Individual Product to individuals that do not meet AvMed's underwriting guidelines, which shall be in accordance with applicable law(s) and regulation(s). Producer shall use best efforts to ensure that each application is fully and truthfully completed by the applicant and the completed application fully and accurately reflects and discloses the circumstances, including the health condition, of persons for whom coverage is sought in the application for coverage. Producer further agrees to inform every applicant that AvMed will rely upon said health representations in the underwriting process, and that the subsequent discovery of material facts known to applicant and either not disclosed or misrepresented on the health statement may result in the rescission of any contract entered by AvMed, and that in no event will the applicant have any coverage unless and until it is reviewed and approved by AvMed and a contract is issued, and that AvMed may require a higher premium.

- 2.2 Producer License. Producer shall maintain its Producer license with the State of Florida in good standing and shall notify AvMed immediately should its license expire or be terminated, surrendered, suspended, revoked or negatively affected in any way. Florida Department of Financial Services appointment fees shall be paid by AvMed if in its sole

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discretion it determines that Producer has met acceptable production standards for the Individual Product.

- 2.3 Maintain Insurance. Producer shall maintain professional liability insurance reasonably sufficient to cover any professional liability, but no less than \$1,000,000 per incident/\$3,000,000 per year. Professional liability that shall be insured under such insurance shall include, but not be limited to, liability that Producer may incur as a result of presenting the Individual Product to Individuals or Producer's actions or omission related in any way to this Agreement.
- 2.4 Training & Certification. Producer shall be responsible to attend an AvMed sponsored producer training & certification seminar per 18-month period.
3. Payment of Commission. AvMed shall pay Producer a commission at the rates and in accordance with the terms and conditions in this Agreement, and as specifically set forth in Attachment A, which is included by reference herein. Compensation paid shall be limited to business written after the effective date of this Agreement. AvMed may modify or replace its commission schedule on thirty (30) days prior written notice to Producer, and such modified or replacement schedule shall apply to all other policies effective following the effective date of such modification or replacement. Producer acknowledges that any and all compensation for policies sold or renewed by Producer with an AvMed contracted General Agency shall be paid directly to the Producer by the General Agency, and governed by the agreement between the General Agency and Producer. AvMed is not responsible for any disputes related to compensation between the General Agency and Producer.
- 3.1 Preconditions of Payment of Conditions. In order to receive a commission for the sale of the Individual Product to an individual, all of the following conditions must be met:
- 3.1.1 AvMed has on file at its offices: (i) Producer's completed and current W-9 form, (ii) a current Individual Coverage Application (iii) an executed Producer Agreement; a completed Direct Deposit Authorization Form; and
- 3.1.2 AvMed has actually received the premiums related to the commission due to Producer; and
- 3.1.3 Producer maintains his/her professional license with the State of Florida and appointment by AvMed has been confirmed by Florida Department of Financial Services, and
- 3.1.4 Producer has been designated "Writing Agent of Record" by the insured and Producers information is accurately noted in the Individual Coverage Application submitted by the insured, and
- 3.1.5 Producer complies with the terms of this Agreement.
- 3.2 Recently Terminated Subscriber. Notwithstanding anything to the contrary in this Agreement, no commission will be paid with regard to a Subscriber(s) that terminated his/her enrollment with AvMed Individual Product some time in the twelve (12) months preceding the proposed effective date unless AvMed determines, in its sole discretion that Producer was instrumental in the Subscriber re-enrolling in the Individual Product.
- 3.3 Producer's Death. No Compensation payable to an individual Producer or a Producer firm which is a sole proprietorship shall accrue and be payable on or after the death of the Producer.
- 3.4 Commissions Paid in Error. In the event AvMed pays a commission to Producer due to error, whether Producer or AvMed error, including, but not limited to, payment of commission for premiums that the Member fails to pay to AvMed, AvMed may collect

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such amount thereof directly from Producer by offsetting any future commissions payable to Producer against such amount. Provided, AvMed shall not pursue commission overpayments after expiration of the eighteen (18) month period commencing the first day of the month following the month in which the error occurred. Producer shall have ninety (90) days to dispute commission underpayments in writing to AvMed.

- 3.5 Termination of Individual Coverage. AvMed shall have the sole right at all times to reject applications for coverage in accordance with applicable laws and regulations. In addition, AvMed and Subscribers may terminate contracts in effect in accordance with applicable laws and regulations. In the event that any application for coverage is rejected or a contract is terminated, AvMed shall retain only the premiums related to the period of time that a contract was in effect and AvMed shall refund pre-paid premiums, in whole or in part, for the period of time that the contract was not in effect. Notwithstanding the foregoing, retroactive terminations of the contract or enrollees' coverage thereunder shall only take place in accordance with the terms and conditions of the contract and applicable laws and regulations.
- 3.6 Direct Sales. In no event will commissions be paid on individual policies sold, renewed or serviced directly by AvMed if Producer was not involved in the initial sale of the policy. Otherwise, AvMed reserves the right to determine whether Producer shall be paid a commission for individual policies sold, renewed or serviced directly by AvMed.
- 3.7 Advance Commission. AvMed may, in its sole discretion, make advance payment of unearned commission to Producer as set forth in Attachment A. Should a policy lapse prior to the time the full amount of Advance Commission has been earned, any amount of Advance Commission remaining unearned shall, at AvMed's option, be either immediately repaid to AvMed or set off against future commissions payable.
- 3.8 Renewal Commissions. Renewal commissions shall be payable to Producer by AvMed as long as all of the following conditions have been satisfied:
- 3.8.1 AvMed retains policy in force produced by Producer, and
 - 3.8.2 Producer complies with the terms of this Agreement.

4. Nondisclosure / Confidentiality.

- 4.1 Confidential Information. In order for Producer to perform their respective obligations under this Agreement, it may be necessary or desirable for AvMed to disclose Confidential Information (hereinafter defined) to Producer. Producer agrees that any such Confidential Information disclosed to it or to its employees shall be used only in connection with the legitimate purposes of this Agreement, shall be disclosed only to those who have a need to know it, and shall be safeguarded with the same care normally afforded such Confidential Information in the possession, custody or control of the Producer, provided, however, that such care shall be no less than reasonable care necessary to safeguard the Confidential Information.

"Confidential Information" shall mean the proprietary, trade secret or business information of AvMed that relates to AvMed's past, present or future research or development activities, business operations or financial condition.

The foregoing shall not apply when, after and to the extent the Confidential Information disclosed: (i) becomes available to the public through no fault of the Producer; (ii) is subsequently received by Producer in good faith from a third party without breaching any confidential obligation between the third party and AvMed ; or (iii) is required by law, administrative or judicial order to be disclosed; provided, however, Producer shall notify

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AvMed prior to disclosure of Confidential Information as required by law, administrative or judicial order.

- 4.2 Member Information. Producer agrees to maintain the confidentiality of all Member Information received from AvMed, whether received from an enrollee or a parent of an enrollee (if under the age of 18). "Member Information" shall include: (i) individually identifiable health information, deemed "PHI" under regulations promulgated under the federal Health Insurance Portability and Accountability Act and applicable regulations (collectively "HIPAA") such as information relating to treatment, medical condition or payment for health care services of the member; and (ii) non-public personal information under the Gramm Leach Bliley Act and applicable state law and/or regulations ("NPPI") such as, but not limited to, Member identification numbers, addresses, or phone numbers. Producer agrees to obtain such necessary authorizations and to enter into all necessary agreements in connection with the use or disclosure of Member Information. Producer agrees not to further disclose Member Information without the Member's authorization. Producer further agrees not to make any changes to any application enrollment forms, statements of health or any other forms or documents provided by individuals or their eligible dependents in connection with enrollment in AvMed health benefits products.
- 4.3 Breach. In the event of a breach or an alleged breach of this Section 4, the Parties hereto agree and acknowledge that the remedy of law for any breach or threatened breach shall be inadequate and AvMed shall be entitled to an injunction restraining Producer from committing or continuing to commit any such breach, without being required to post bond or other security and without having to prove the inadequacy of the available remedies at law. Nothing contained herein shall be construed as prohibiting AvMed from pursuing any other remedies for such breach or alleged breach. Producer shall bear the burden of proving it did not disclose Confidential Information or Member Information.
5. Regulatory Compliance. AvMed and Producer each agree to comply with all statutes, regulations and requirements now or hereafter in force and effect of all municipal, county, state and federal authorities, to the extent that they directly or indirectly bear upon the subject matter of this Agreement. Such statutes, regulations and requirements shall include, without limitation, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated thereunder, each as amended from time to time, and the applicable requirements under any state or federal fair employment practices or similar laws declaring discrimination in employment based on age, race, color, creed, religion, sex, sexual orientation or national origin as illegal and, if applicable, Title VII of the Civil Rights Act of 1964, or any applicable rules or regulations promulgated pursuant to any such laws herein described.

Further, the Parties acknowledge and agree that any provision that is required to be in this Agreement by such statutes, regulations, and requirements but is not expressly set forth herein, shall be incorporated herein by this reference and shall bind both Parties. At the request of either Party, both Parties shall execute an amendment to this Agreement to expressly include any such provision.

6. Intellectual Property. Any applications, printed materials and any other sales materials provided to aid Producer in processing information for applications for insurance are the exclusive property of AvMed and are to be used by Producer only in the promotion and presentation on behalf of and for the exclusive benefit of AvMed. At the request of AvMed all materials provided to Producer shall be returned upon the termination or expiration of this Agreement. Producer shall not make use of any advertisement or any other material in which the name or logo of AvMed is used without AvMed's express consent.
7. Indemnification. Both Parties hereby agree to indemnify, defend and hold harmless, each other and its respective officers, directors, and employees, against any claim, loss, cost, damage, expense or other liability, including, without limitation, all costs and attorney's fees, arising out of, or in connection with, the act or omissions of either Party or its respective officers, directors,

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employees, agents, servants or independent contractors, related to this Agreement, including but not limited to any such acts or omissions found to violate state or federal law or regulation.

8. Audit. AvMed may audit Producer's records relating to Producer's performance under this Agreement. AvMed shall provide Producer with fourteen (14) days advance written notice of its intent to audit Producer. Any audit will be conducted during regular business hours of Producer by AvMed or by an auditor appointed by AvMed and the cost of the audit shall be borne by AvMed unless AvMed determines that Producer has materially breached the terms and conditions of this Agreement, in which case Producer shall pay all of AvMed's cost of the audit within thirty (30) days of AvMed 's request for such payment.
9. Non Solicitation. Producer agrees that so long as this Agreement is in effect and for a period of two (2) years after the date of termination of this Agreement. Producer shall not, either directly or indirectly, in any capacity whatsoever, solicit or attempt to solicit any person employed by AvMed, any of its subsidiaries, its parent corporation or a corporation with which AvMed, directly or indirectly, shares a common parent ("Employee"), to leave such employment. For purposes of this Agreement, indirect solicitation shall not include advertising in professional journals and newspapers, provided Producer does not request or advise an Employee to make application for such advertised positions.
10. Term and Termination.
 - 10.1 Term. This Agreement shall have an initial term of one (1) year. Thereafter, this Agreement shall automatically renew every twelve (12) months for successive one year periods unless sooner terminated. Florida Department of Financial Services renewal appointment fees shall be paid by AvMed, in its sole discretion, determines that Producer has met acceptable production standards for the Individual Product.
 - 10.2 Without Cause Termination. After the initial one (1) year term, this Agreement may be terminated by either Party giving ninety (90) days prior written notice of any such termination to the other Party, in which case this Agreement shall terminate on the last day of the month in which the ninetieth (90th) day following the date the notice occurs.
 - 10.3 Mutual Termination. This Agreement may be terminated at anytime upon the mutual written consent of all parties.
 - 10.4 Termination for Actions Detrimental to AvMed. AvMed may terminate this Agreement immediately upon written notice to Producer, if AvMed, in its sole discretion, determines that the Producer has acted in a manner that is materially detrimental to AvMed.
 - 10.5 Termination for Breach or Other. If either Party defaults in the performance of any of its duties or obligations hereunder, and such default has not been cured within thirty (30) days of the non-defaulting party's giving of written notice of such default, specifying the nature of the alleged default or breach, the non-defaulting Party may give notice of intent to terminate this Agreement to the defaulting party, and this Agreement shall terminate with regard to all parties on the last day of the month in which the sixtieth (60th) day following the date of the initial written notice of default occurs.

Instances of default under this Agreement shall include, but not be limited to: (i) Producer's license being suspended, revoked or not renewed by the State of Florida; and (ii) Producer acting, or failing to act, in a manner that is injurious to AvMed.

If a Subscriber terminates Producer as Writing Agent of Record, this Agreement shall not terminate.
 - 10.6 Survival of Terms and Conditions. Sections 5, 6, 7, 8 and 9 shall survive termination of this Agreement.

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11. Miscellaneous.

11.1 Notice. All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed sufficiently given upon actual receipt if delivered in person or upon date of mailing if delivered by registered or certified mail, postage prepaid, return receipt requested, addressed to the last known address of the Party to be notified or such other address as such Party may hereafter specify in writing for the purpose of providing notice.

For legal notice: General Counsel
 AvMed, Inc.
 4300 NW 89th Ave.
 Gainesville, FL 32606

11.2 Entire Agreement: Modification. This Agreement constitutes the entire understanding of the parties hereto and supersedes any and all written or oral agreements, representations, or understandings. No modifications, discharges, amendments or alterations shall be effective unless evidenced by an instrument in writing signed by Producer and AvMed, except as such changes may be required by and become effective according to law.

11.3 Relationship of the Parties. AvMed and Producer are separate and independent entities. The relationship between AvMed and Producer is purely contractual and neither AvMed nor Producer, nor the employees, servants, agents or representatives of either shall be considered the employee, servant, agent or representative of the other. As independent contracting Parties, AvMed and Producer shall maintain separate and independent management, and each has full, unrestricted authority and responsibility regarding its organization and structure.

11.4 No Third Party Beneficiaries. The Parties agree that this Agreement shall be interpreted to be between Producer and AvMed only. No third person or entity is intended to be, or is, a beneficiary of or under this Agreement. Nothing in this Agreement shall be construed to create any liability on the part of AvMed or Producer or their respective directors, officers, shareholders, employees or agents, to any third parties for any act or failure to act of any party hereto.

11.5 Assignment. This Agreement shall not be assigned or transferred by Producer without prior written consent of AvMed and its sole discretion.

11.6 Non-Waiver of Provisions. Any failure by AvMed to insist upon performance of any provision of this Agreement shall not be construed as a waiver of such provision or of the right of AvMed to require performance of and to enforce all of the terms and provisions of this Agreement.

11.7 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity of any remaining provisions, and all remaining provisions shall continue in full force and effect and shall in no way be affected, impaired or invalidated.

11.8 Applicable Law. This Agreement shall be construed under and in accordance with the laws of the State of Florida.

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IN TESTIMONY WHEREOF, the Parties hereto have caused this Agreement to be executed as of the first day set forth above.

AvMed, Inc. d/b/a AvMed Health Plans

By: _____
(Signature)

Javier Mendoza
(Print Name)

Vice President, Strategic Marketing
(Title)

(Date)

Individual Producer

(Print Producer Name)

(Signature)

(DFS License Number)

(Agency Name)

(Address of Record)

(City, State, Zip Code)

(Date)

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Attachment A to Producer Agreement
For Individual Products – Under Age-65

2011 Producer Commission Schedule
Effective August 1, 2011 – December 31, 2011

New Sales - Commission

- Fifteen (15%) of base paid premium
- Paid monthly after AvMed receives premiums during the first 12 months.

Renewals – Commission

- Five (5%) of base paid premium for second and third renewals.
- Paid monthly after AvMed receives premiums.

Terms and Conditions:

- Commissions apply to all policies with effective dates of coverage on or after August 1, 2011.
- Individual Under Age-65 guarantee issue policies are excluded.
- Base paid premium excludes all underwriting risk factor premium adjustments.
- Attachment A applies only to business placed by Producer directly with AvMed. Any and all compensation for policies sold or renewed by Producer with a General Agency that contracts with AvMed shall be paid directly to the Producer by the General Agency and governed by the agreement between the General Agency and Producer.
- Payment of all commissions, bonus, or other compensation payable to Producer is subject to the Producer Agreement for Individual Products Under Age-65 signed by Producer and AvMed.
- Attachment A may be modified or discontinued at anytime for any reason with thirty (30) days prior notice.
- The commission rates above automatically expire on December 31, 2011, unless otherwise extended in writing by AvMed.

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**HIPAA BUSINESS ASSOCIATE ADDENDUM TO
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**Information for Agents and Brokers
Regarding the HIPAA Business Associate Addendum**

You may be aware that the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") requires health plans such as AvMed to enter into Business Associate Agreements with any service providers or vendors with whom protected health information is shared.

Should you desire to assist your groups and members with any possible issues regarding their account or claims information, it will be necessary that you enter into a Business Associate Agreement with AvMed before we can release to you any protected health information. For example, if you call our Member Services Department and request information specific to a member or claim, we can not release the information until you have signed the Business Associate Addendum or the member completes a release form.

If you should have any questions regarding this Addendum, please do not hesitate to contact our Privacy Office at (800) 346-0231, ext. 40782.

**HIPAA BUSINESS ASSOCIATE ADDENDUM TO
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Business Associate Addendum

This HIPAA Business Associate Addendum (“Addendum”) supplements and is made a part of the agent agreement (“Agreement”) by and between AvMed, Inc., d/b/a AvMed Health Plans or AvMed (“Covered Entity”) and _____ (“Business Associate”), and is effective as of _____ (the Addendum Effective Date).

RECITALS

A. AvMed wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

B. AvMed and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and regulations promulgated there under by the U.S. department of Health and Human Services (the “HIPAA regulations”) and other applicable laws.

C. As part of the HIPAA regulations, the Privacy Rule (defined below) requires Covered Entity to enter into a contract containing specific requirements with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.502 (e) and 164.504(e) of the Code of Federal Regulations (“CFR”) and contained in this Addendum

1. Definitions

a. “Business Associate” shall have the meaning given to such term under the privacy Rule, including, but not limited to, 45 CFR Section 160.103.

b. “**Covered Entity**” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103.

c. “**Data Aggregation**” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR 164.501.

d. “**Designated Record Set**” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.

e. “**Health Care Operations**” shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.

f. “**Privacy Rule**” shall mean the HIPAA Regulation that is codified at 45 CFR Part 160 and 164, Subparts A and E.

g. “**Protected Health Information**” or “**PHI**” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental 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 (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the privacy Rule, including, but not limited to, 45 CFR Section 160.103.

h. “**Security Rule**” shall mean the HIPAA Regulation that is codified at 45 CFR Part 160 and Part 164, Subtitle A and Subchapter C.

2. Protected Health Information to be Obtained or Disclosed

- The following details the Protected Health Information that may be transmitted by AvMed to the Business Associate:
- Enrollment/Eligibility Information
- Benefit Information
- Claims Information

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- Authorization Information

The Protected Health Information shall be used for the following purposes:

Functions and activities on AvMed's behalf or for the proper management and administration of agent/agency operations. Agent is permitted to use and disclose Protected Health Information it creates or receives for or from Company to perform the following functions: Quoting, Enrollment, Customer Service, Renewal and related functions, or as otherwise specifically set forth in this Agreement.

The following Protected Health Information may be obtained by the Business Associate directly from AvMed members:

- Enrollment/Eligibility Information
- Benefit Plan Information
- Claims Information
- Prescription Information
- Authorization Information

Of the Protected Health Information obtained by the Business Associate, the following is contained in AvMed's Designated Record Set:

- Enrollment/Eligibility Information
- Claims Information
- Health Plan Medically Related Authorization Information – Denied Authorizations Only
- Pharmacy Claims Information
- Participation in Care Management Programs

3. Obligations of Business Associate

a. **Permitted Uses:** Business Associate shall not use Protected Health Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and Addendum. Further, Business Associate shall not use Protected Health Information in any manner that would constitute a violation of the Privacy Rule if so used by AvMed, except that Business Associate may use Protected Health Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, or (iii) for Data Aggregation purposes for the Health Care Operations of AvMed.

b. **Permitted Disclosures:** Business Associate shall not disclose Protected Health Information in any manner that would constitute a violation of the Privacy Rule if disclosed by AvMed, except that Business Associate may disclose Protected Health Information (i) in a manner permitted pursuant to the Agreement and Addendum, (ii) for the proper management and administration of Business Associate; (iii) as required by law, or (iv) for Data Aggregation purposes for the Health Care Operations of AvMed. To the extent that Business Associate discloses Protected Health Information to a third party, Business Associate must obtain, prior to making any such disclosure, (aa) reasonable assurances from such third party that such Protected Health Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (bb) an agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of the Protected Health Information, to the extent it has obtained knowledge of such breach.

c. **Security Safeguards:** Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Health Information otherwise than as permitted by this Agreement. Business Associate shall maintain a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities.

d. **Reporting of Improper Use or Disclosure:** Business Associate shall report to AvMed in writing of any use or disclosure of Protected Health Information otherwise than as provided for by the Agreement and this Addendum within five (5) days of becoming aware of such use or disclosure.

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e. **Business Associate's Agents:** Business Associate shall ensure that any agents, including subcontractors, to whom it provides Protected Health Information agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.

f. **Access to Protected Health Information:** Business Associate shall make Protected Health Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to AvMed for inspection and copying within ten (10) days of a request by AvMed to enable AvMed to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.524.

g. **Amendment of PHI:** Within ten (10) days of receipt of a request from AvMed for an amendment of Protected Health Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Health Information available to AvMed for amendment and incorporate any such amendment to enable AvMed to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.526. If any individual requests an amendment of Protected Health Information directly from Business Associate or its agents or subcontractors, Business Associate must notify AvMed in writing within five (5) days of the request. Any denial of amendment of Protected Health Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of AvMed.

h. **Accounting Rights:** Within ten (10) days of notice by AvMed of a request for an accounting of disclosures of Protected Health Information, Business Associate and its agents or subcontractors shall make available to AvMed the information required to provide an accounting of disclosures to enable AvMed to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.528. As set forth in, and as limited by, 45 CFR Section 164.528, Business Associate shall not provide an accounting to AvMed of disclosures: (i) to carry out treatment, payment or health care operations, as set forth in 45 CFR Section 164.502; (ii) to individuals of Protected Health Information about them as set forth in 45 CFR 164.502; (iii) to persons involved in the individual's care or other notification purposes as set forth in 45 CFR Section 164.510; (iv) for national security or intelligence purposes as set forth in 45 CFR Section 164.512(k)(2); or (v) to correctional institutions or law enforcement officials as set forth in 45 CFR section 164.512(k)(5). Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request. At a minimum, such information shall include: (aa) the date of disclosure; (bb) the name of the entity or person who received Protected Health Information and, if known, the address of the entity or person; (cc) a brief description of Protected Health Information disclosed; and (dd) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to AvMed in writing. It shall be AvMed's responsibility to prepare and deliver any such accounting requested. Business Associate shall not disclose any Protected Health Information except as set forth in Section 2(b) of this Addendum.

i. **Governmental Access to Records:** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Health Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining Covered Entity's compliance with the Privacy Rule. Business Associate shall provide to AvMed a copy of any Protected Health Information that Business Associate provides to the Secretary concurrently with providing such Protected Health Information to the Secretary.

j. **Minimum Necessary:** Business Associate (and its agents or subcontractors) shall only request, use and disclose the minimum amount of Protected Health Information necessary to accomplish the purpose of the request, use or disclosure.

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k. **Data Ownership:** Business Associate acknowledges that Business Associate has no ownership rights with respect to the Protected Health Information.

l. **Retention of Protected Health Information:** Notwithstanding Section 4(d) of this Addendum, Business Associate and its subcontractors or agents shall retain all Protected Health Information throughout the term of the Agreement and shall continue to maintain the information required under Section 2(h) of this Addendum for a period of six (6) years after termination of the Agreement.

m. **Notification of Breach:** During the term of this agreement, Business Associate shall notify AvMed within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Business Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

n. **Audits, Inspection and Enforcement:** Within ten (10) days of a written request by AvMed, Business Associate and its agents or subcontractors shall allow AvMed to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Health Information pursuant to this Addendum for the purpose of determining whether Business Associate has complied with this Addendum; provided, however, that (i) Business Associate and AvMed shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) AvMed shall protect the confidentiality of all confidential and proprietary information of Business Associate to which AvMed has access during the course of such inspection; and (iii) AvMed shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate. The fact that AvMed inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does AvMed's (aa) failure to detect or (bb) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of AvMed's enforcement rights under this Agreement.

4. Obligations of AvMed:

AvMed shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy, and security of PHI transmitted to Business Associate pursuant to this Agreement, in accordance with the standards and requirements of the Privacy Rule, until Business Associate receives such PHI.

5. Termination.

a. **Material Breach:** A breach by Business Associate of any material provision of this Addendum, as determined by AvMed, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement by AvMed pursuant to the Termination Section of the Agreement.

b. **Reasonable Steps to Cure Breach:** If AvMed knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of the Business Associate's obligations under the provisions of this Addendum or another arrangement and does not terminate this Agreement pursuant to Section 4(a), then AvMed shall take reasonable steps to cure such breach or end such violation, as applicable. If AvMed's efforts to cure such breach or end such violation are unsuccessful, AvMed shall either (i) terminate this Agreement, if feasible or (ii) if termination of this Agreement is not feasible, AvMed shall report Business Associate's breach or violation to the Secretary of the Department of Health and Human Services.

c. **Judicial or Administrative Proceedings:** Either party may terminate this Agreement, effective immediately, if (i) the other party is named as a defendant in a criminal proceeding for a violation of HIPAA, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the other party has violated any standard or requirement of HIPAA, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

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d. **Effect of Termination:** Upon termination of this Agreement for any reason, Business Associate shall return or destroy all Protected Health Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Health Information. If return or destruction is not feasible, Business Associate shall continue to extend the protections of Sections 2(a), 2(b), 2(c) and 2(e) of this Addendum to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. If Business Associate elects to destroy the PHI, Business Associate shall certify in writing to AvMed that such PHI has been destroyed.

6. Disclaimer.

AvMed makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA Regulations will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

7. Certification.

To the extent that AvMed determines that such examination is necessary to comply with AvMed's legal obligations pursuant to HIPAA relating to certification of its security practices, AvMed or its authorized agents or contractors, may, at AvMed's expense, examine Business Associate's facilities, system, procedures and records as may be necessary for such agents or contractors to certify to AvMed the extent to which Business Associate's security safeguards comply with HIPAA, the HIPAA Regulations or this Addendum.

8. Amendment.

Amendment to Comply with Law: The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the Privacy Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that AvMed must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all Protected Health Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the Privacy Rule or other applicable laws. AvMed may terminate this Agreement upon thirty (30) days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by AvMed pursuant to this Section or (ii) Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of PHI that AvMed, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the Privacy Rule.

9. No Third-Party Beneficiaries.

Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than AvMed, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

10. Effect on Agreement.

Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Agreement shall remain in force and effect.

11. Interpretation.

The provision of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

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PRODUCER AGREEMENT
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IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Addendum Effective Date.

AVMED, INC.

By: _____

Javier Mendoza

Title: Vice President of Strategic Marketing

Date: _____

BUSINESS ASSOCIATE

By: _____

Print Name: _____

Title: _____

Date: _____