

# Agent Agreement

**Introduction**

This Agent Agreement ("Agreement") between Decent, Inc. a Delaware Corporation (“Decent”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

("Agent") is made and entered into on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”) and sets forth the terms and conditions under which Agent may sell coverage by Decent, Inc.

# Section 1: Definitions

* 1. Agent means the person or entity licensed by the applicable Texas regulatory agency and appointed by Decent to solicit an Applicant to purchase a Benefit Plan and who is a party to this Agreement.
	2. Agent of Record means a legally eligible person or entity designated by an Applicant to serve as its’ insurance agent, broker or producers and that Decent may compensate under the terms of this Agreement.
	3. Benefit Plan means a health coverage product (e.g., a health insurance policy) that Decent has authorized to be sold to an Applicant by Agent.
	4. Applicant means an entity with which Decent has a contract to provide individual or group coverage under a Benefit Plan.
	5. Employer means an entity which has applied and purchased a Benefit Plan from Decent.
	6. Governmental Entity shall include, but be not limited to, villages, townships, cities, counties, public school districts and similar tax-supported entities.

# Section 2: Rights and Responsibilities

* 1. Solicitation of Applicants. Decent authorizes Agent to sell Decent's Benefit Plans under the terms of this Agreement. Agent agrees to solicit prospective Applicants to enroll in one or more Benefit Plans from Decent. In making these solicitations, Agent will comply with the following terms and conditions:
		1. Proposals. Any proposal an Agent gives to a prospective Applicant must not be misleading and must accurately reflect Decent's terms of coverage, including but not limited to benefits and premiums.
		2. Terms may not be changed without Decent's approval. Agent may not modify any term of a proposal except with Decent's prior written approval.
		3. Application information. Agent must accurately and completely record and submit to Decent all information that Decent requires in order to enroll Applicants under a Benefit Plan.
		4. Marketing materials. If Agent uses any material not provided or approved by Decent, the material must be accurate and not misleading. Any marketing materials proposed for use by Agent but not provided or previously approved by Decent are subject to prior approval by Decent. Agent shall not use any marketing materials or other information regarding Decent to the competitive advantage of any competitor of Decent.
	2. Licensing. Agent must possess and maintain every license required by law to perform services under this Agreement. Agent must provide proof of licensure to Decent upon request. Agent must immediately notify Decent of any expiration, termination, revocation, suspension or any other action by a Department of Insurance or any other governmental agency affecting licenses required to perform services under this Agreement.
	3. Appointment. Decent will appoint Agent to solicit prospective Applicants to purchase Benefit Plans from Decent. Subject to applicable law, Decent may terminate Agent's appointment at any time without terminating this Agreement in its entirety.
	4. Training. Agent must successfully complete any training Decent requires within 3 months after being notified of such required training.
	5. Acceptance for Enrollment. Agent acknowledges that only Decent, and not Agent or any other person, may accept or reject for enrollment a prospective Applicant. Agent further acknowledges that no Applicant is eligible to receive coverage under a Benefit Plan unless and until Decent accepts and enrolls the Applicant and that only Decent and not Agent or any other person, has the right to determine the effective date of coverage.
	6. Servicing of Applicants and Employers. Agent must assist Applicants and Employers in enrolling, maintaining, and renewing coverage under any applicable Benefit Plan as reasonably required by Decent and the Applicant or Employer.
	7. Extent and Limitation of Agent's Authority. Agent has no authority to act on Decent's behalf except as expressly provided in this Agreement. Agent must not represent by word or deed that Agent has authority to (i) bind coverage; (ii) accept an applicant for coverage under a Benefit Plan; (iii) misrepresent or omit material facts in an application; (iv) collect any premium (except for the first month's premium); (v) modify or waive any Benefit Plan or any Benefit Plan's term regarding enrollment, coverage, or benefits;

(vi) distribute any advertisement, circular, or promotional literature that is inaccurate, misleading, or not previously approved by Decent; (vii) sell any Benefit Plan or other product not expressly authorized by this Agreement; or (viii) do any other thing, on behalf of Decent, not expressly permitted by this Agreement.

* 1. Books and Records; Audit.
		1. Adequate records required. Agent must maintain adequate books and records in accordance with applicable law and standards within the health care insurance industry.
		2. Decent may audit Agent's records. Agent agrees to permit Decent to inspect and audit all information and records related to services Agent performs for Decent under this Agreement. Decent must give Agent reasonable notice and conduct the inspection and audit during regular business hours.
		3. Unless a longer time period is required by applicable law, Decent shall have access to Agent’s records during the term of this Agreement and for six (6) years following its termination.
	2. Insurance and Indemnification.
		1. Insurance. Agent must maintain general liability, professional liability, and errors and omissions insurance or bonds in amounts and in forms standard and adequate for Agent's business and agreeable to Decent and in accordance with applicable regulatory requirements. Agent must provide Decent proof of Insurance upon Decent's request. The errors and omissions insurance will have a minimum amount of five hundred thousand ($500,000) dollars per occurrence/one million, five hundred thousand ($1,500,000) dollars in aggregate. Agent must immediately notify Decent in writing if Agent's insurance terminates, is canceled, suspended, or changes in a material way, including but not limited to a change in the amount of insurance.
		2. Indemnification. Decent and Agent will indemnify, hold harmless and defend the other from and against any and all claims, litigation, losses, liabilities, costs, and other expenses incurred as a result of a material breach of the terms of this Agreement. Agent will indemnify and hold harmless Decent (including its directors, officers, attorneys, and employees) from any claims, liability, judgments, damages or costs (including reasonable attorneys' fees) asserted or awarded against or incurred by Decent as a result of any act, error, or omission of Agent.
	3. Provision of Materials: Training. Decent will furnish Agent with materials and training that, in Decent's sole judgment, are necessary for Agent to perform Agent's duties under this Agreement.
	4. Federal Crime Control Act. By signing this Agreement, Agent certifies that Agent has not been convicted of, or pled guilty or no contest, to any criminal felony involving dishonesty or breach of trust and has not been convicted of an offense under Section 1033 of the Violent Crime Control and Law Enforcement Act of 1994. Agent further agrees to notify Decent, in writing, immediately upon receiving notice of any misdemeanor or felony charges or any actions including, but not limited to, convictions by any governmental authority for commission of any act involving fraud, dishonesty, breach of trust, theft, misappropriation of money, or breach of any fiduciary duty.
	5. Compliance with Company Rules. Agent will abide by all applicable Decent policy and procedures and written notices provided to Agent.
	6. Agent Information Form. Agent agrees to fill out and sign the Agent Information Form attached hereto as Exhibit C. Any omission or misrepresentation deemed to be material by Decent will be grounds for termination subject to Section 6.5.

# Section 3: HIPAA and Business Associates

Agent agrees to execute and comply with the requirements of the HIPAA Business Associate Agreement attached hereto as Exhibit A. Failure to comply with the terms of the BAA is a material breach of this Agreement.

# Section 4: Compensation

* 1. Compensation Payable to Agent. Decent will compensate Agent for Agent's services during the term of this Agreement in accordance with the terms and conditions set forth in the Commission Schedule attached hereto as Exhibit B. Decent may modify the Commission Schedule from time to time upon thirty (30) days advance written notice. Decent may amend the Commission Schedule, by deleting or adding Benefit Plans or by modifying commission rates for new sales or renewals of existing Benefit Plans. Notwithstanding anything to the contrary contained in this Agreement or Exhibit B, Decent will not compensate Agent under the terms of this Agreement, except with respect to Applicant (regardless of the effective date of coverage by Decent) for which (a) Agent is the Agent of Record, (b) Agent continues to service the Applicant (regardless of whether the writing agent is affiliated with Agent), and (c) Decent determines, at its sole discretion, that it may legally compensate Agent. Notwithstanding anything to the contrary in this Agreement, no compensation will be paid on any Applicant where the Agent is not receiving base commissions. In addition, Decent will not pay, nor shall Agent accept, any compensation on any Applicant where the Agent receives compensation directly from the Applicant or is otherwise acting as a consultant for the Applicant, unless Decent first receives a written consent, in a form acceptable to Decent, from the Applicant authorizing Decent to compensate the Agent on such Applicant; provided, however in no instance will Decent pay, nor shall Agent accept, any compensation on any Applicant that is a Governmental Entity, where the Agent receives compensation directly from the Governmental Entity or is otherwise acting as a consultant of the Government Entity.
	2. Payment. Decent will compensate Agent monthly. Payment shall be payable 30 days after the end of the calendar month for which the commissions are earned. The commissions shall be payable only so long as this Agreement is in effect and the Agent is designated by the Applicant as the Agent of Record to receive commissions.
	3. Commissions on Hold. Decent may, at its discretion, place compensation of Agent on hold, if based on Agent's information on file with Decent, Agent no longer complies with the terms of this Agreement. Agent agrees to forfeit any compensation placed on hold if the cause of such hold has not been resolved within six (6) months of the hold's effective date, as indicated on a hold notification letter or commissions statement.
	4. Modification or Termination of Compensation. Decent may terminate or amend commissions on any Benefit Plan or any base commission payable to Agent with respect to any Applicant (regardless of the original effective date of coverage by Decent) at any time by notifying Agent (in a manner consistent with the terms of this Agreement) 30 or more days before the effective date of the termination or amendment.

Decent may terminate or amend any bonus or other recognition or reward program applicable to Agent at any time, for any reason without prior notice to Agent.

* 1. Adjustments.
		1. Each party agrees to promptly notify the other upon becoming aware of an incorrect payment amount. Subject to subsections
		2. and (c) below, Agent agrees to promptly remit to Decent any amounts overpaid pursuant to this Agreement.
1. Decent may correct an overpayment error by notifying Agent of the error and asking for repayment. Agent will pay balanced owed to Decent within thirty (30) days of receiving such notice. At its sole option, Decent may instead recover overpayments from Agent by offsetting the overpayment against future compensation and notifying Agent of the offset and the reason for it.
2. Agent shall notify Decent of an underpayment of commissions. Such notice must be in writing and received within ninety (90) days from the date of the commission statement in question. Agent forfeits any underpaid commissions if Agent fails to timely provide such notice.
3. If Decent incurs any costs in collecting reimbursement of an overpayment from Agent, Including but not limited to a collection agency and attorney fees but not including the costs of offsetting future payments, Agent will pay Decent's costs, as applicable.
4. Notwithstanding anything in this Agreement or any compensation schedule to the contrary, Decent will not pay any amount to Agent that exceeds the maximum prescribed by any applicable law.
	1. No Compensation to Other Agents. Decent will not pay compensation to any other agent under the terms of this Agreement. Agent agrees to defend, Indemnify and hold harmless Decent if an agent (other than Agent) makes a claim for compensation against Decent under the terms of this Agreement.
	2. Taxes.
		1. Agent solely responsible for taxes. Agent acknowledges that Agent is not Decent's employee and that Agent is solely responsible for reporting and paying a tax of any type or other cost assessed on the basis of Decent's payment of compensation to Agent under this Agreement.
		2. Decent will not withhold for taxes. Agent acknowledges and agrees that Decent will not withhold any amount of compensation for Agent's taxes, including but not limited to income tax, social security, and Medicare tax, unemployment compensation taxes or costs; or any other tax, cost, fee or charge related to Agent's compensation for services under this Agreement.

# Section 5: Agent of Record

* 1. Designation of Agent of Record. Decent will consider Agent to be Agent of Record for every Applicant and/or Employer sold by Agent under the terms of this Agreement unless and until an Applicant and/or Employer asks Decent to change its Agent of Record to a different agent.
	2. Change in Agent of Record. Notwithstanding the forgoing, Decent may, in good faith, change an Applicant’s and/or Employer’s Agent of Record at any time for any reason in accordance with applicable law and the following provisions are not intended to limit this right in any way.
		1. Written request from Applicant and /or Employer. At its sole discretion, Decent will recognize a request to change an Agent of Record only if it is in writing and is from the Applicant and/or Employer, and not from Agent or any other person. If an Applicant and/or Employer asks Decent to change its Agent of Record, Decent will determine the effective date of the change at its sole discretion.
		2. Termination Events. Upon the occurrence of at least one of the termination events described in Sections 6.3 through 6.8 of this Agreement, Decent will no longer recognize Agent as any Applicant’s and/or Employer’s Agent of Record.

# Section 6: Term and Termination

* 1. Term. This Agreement is effective from the Effective Date until terminated in accordance with this Section 6.
	2. Termination for any Reason. Decent or Agent may terminate this Agreement at any time for any reason, by providing written notice of termination to the other party sixty (60) or more days before the effective date of termination.
	3. Termination for Loss of License. If, at any time during the term of this Agreement, Agent does not have, or fails to maintain, a license required to perform services or receive compensation under this Agreement (including if Agent's license is revoked by a licensing or regulatory agency but not including a temporary suspension of Agent's license), it shalt be considered a material breach of this Agreement by Agent and this Agreement shall be terminated effective as of the date that Agent first lost, or failed to maintain, the license without regard to when Decent learns of the loss of, or failure to maintain, the license or when Decent notifies Agent that this Agreement has been terminated. Decent may recover any compensation paid to Agent after Agent loses or fails to maintain any such license.
	4. Termination Upon Cessation of Agent's Business. This Agreement shall terminate automatically upon Agent's death, dissolution, receivership, insolvency, or bankruptcy.
	5. Termination for Agent's Breach. If Agent breaches a material term of this Agreement (including, but not limited to, Sections 2.1(d) (marketing materials), 2.2 (licenses), 2.8 (authority), 2.9 (insurance) Section 3 (privacy), Decent may terminate this Agreement immediately by notifying Agent in writing of the effective date of termination. In addition, Agent, acting as a Business Associate, acknowledges that its failure to cure any violation of HIPAA regulations of this Agreement shall also be considered a material breach of this Agreement and that Decent may therefore immediately terminate this Agreement and any other contract between Decent and Agent. The effective date of termination pursuant to this Section 5.5 may be the date of the breach or any later date that Decent specifies in the notice of termination.
	6. Termination for Disciplinary Action. If a licensing or regulatory agency subjects Agent to any disciplinary sanction (for example, a reprimand or temporary suspension of Agent's license), Decent may terminate the Agreement by providing written notice to Agent effective upon receipt of the notice, or any later date that Decent specifies in the notice. No compensation will be payable to Agent for services rendered during any period in which Agent's license is temporarily suspended. Decent may recover any compensation paid to Agent during any period in which Agent's license is temporarily suspended.
	7. Termination for Fraud. If the Agent engages in, or knowingly assists another to commit, fraudulent or dishonest activity in connection with the solicitation, enrollment or renewal of any Applicant, Applicant or Employer, this Agreement shall terminate effective as of the date on which Agent engaged in or assisted with such activity without regard to when Decent learns of the fraudulent or dishonest activity or when Decent notifies Agent that this Agreement has been terminated. Decent may recover any compensation paid to Agent after Agent engaged in, or knowingly assisted another to commit, the fraudulent or dishonest act without regard to when Agent actually earned such compensation.
	8. Termination based on Acquisition or Merger. Decent may terminate this Agreement in the event that (i) Agent merges with, or is acquired by a competitor of Decent, or (ii) a competitor of Decent acquires substantially all of the assets of Agent.
		1. Competitor defined. A competitor of Decent for purposes of this provision includes any entity (including any such entity's affiliates) that, in the ordinary course of its business, is in direct or indirect competition with Decent.
		2. Notice. Agent must provide at least 60 days prior notice to Decent of the closing date of any transaction described in this Section. Upon request, and subject to any applicable confidentiality restrictions or obligations, Agent must provide Decent any and all information about the transaction that Company reasonably requests.
		3. Procedure. Upon receipt of such notice from Agent, Decent may terminate this Agreement, in whole or in part, immediately by providing written notice to Agent. If the Agreement is not terminated in its entirety, Decent must specify in its termination notice the portions that shall be terminated in accordance with this Section.
	9. Effect of Termination.
		1. No solicitation permitted. Agent may not solicit or sell Benefit Plans to Applicants after this Agreement has been terminated.
		2. Compensation. If this Agreement is terminated pursuant to Section 6.2 above, Decent will continue to pay Agent compensation for Applicants and/or Employer previously enrolled by Agent as long as the Applicant and/or Employer has an in-force Benefit Plan with Decent, Agent is the Applicant’s and/or Employer’s Agent of Record and continues to service the Applicant and/or Employer, and Agent is legally eligible to receive compensation in Decent's sole discretion,
		3. Material breach. Upon termination of this Agreement pursuant to Section 6.3 (loss of license), 6.4 (Agent's death or dissolution), 6.5 (material breach), 6.6 (disciplinary action), or 6.7 (fraudulent activity), Agent will no longer be entitled to

compensation under this Agreement and Decent shall cease paying such compensation to Agent or any other person under the terms of this Agreement,

* 1. Termination of Appointment or Authority to Sell. Decent may terminate Agent's appointment(s) or authority to sell Decent products at any time for any reason without terminating this Agreement in its entirety. Decent may, at its sole discretion, continue to pay Agent compensation under the terms of this Agreement if Agent is legally eligible to receive compensation.
	2. Survival. The following provisions shall survive termination of this Agreement: Sections 2.7; 2.8(b); 2.9; 2.11; Sections 3, 4 and 5 (in their entirety); 6.3, 6.6 and 6.7 (regarding recovery of compensation paid to Agent); 6.9; 7.1; and 8 (in its entirety).

# Section 7: Dispute Resolution

7.1 Good Faith Negotiation Required. Decent and Agent agree to work together in good faith to resolve any disputes arising under this Agreement. If after at least ninety (90) days following the date one party sent written notice of the dispute to the other party the dispute is not resolved, any party may pursue resolution of the dispute by other means,

# Section 8: Miscellaneous and Administrative

* 1. Agreement is Confidential. Agent agrees not to disclose this Agreement, or any term of it, to any third party without the prior written consent of Decent, except as required by law. This section does not prohibit Agent from disclosing the compensation that Agent receives from Decent to actual or prospective Applicants.
	2. Relationship of the Parties. Agent is an independent contractor and is not Decent's employee. This Agreement does not create any other relationship between the parties, including joint venture or agency. Agent shall in no event be entitled to participate in or to receive any benefits from, any of Decent’s benefit plans, specifically including, but not limited to, coverage under Decent’s workers’ compensation program.
	3. Compliance with Law. The parties agree to comply with applicable laws and regulations while performing their obligations under this Agreement, regardless of whether such laws or regulations are specifically referred to in this Agreement. Agent acknowledges that Decent and its affiliates may have government contracts under which Decent must require its contractors to comply with certain laws that would not otherwise apply to it. Agent agrees to comply with these laws. The information to which Agent may have access to pursuant to this Agreement may contain confidential protected health information (PHI). Accordingly, Agent agrees to comply with all applicable state, federal and HIPAA regulations.
	4. Amendment. This Agreement, including any Addendums attached hereto, may be amended only as provided in this Section
		1. How Decent may amend. Decent may amend this Agreement by providing written notice of the amendment and its effective date to Agent at least thirty (30) or more days before the proposed effective date of such amendment (unless the amendment is a regulatory amendment under (2)(B) of this section).
			1. Form of notice, Decent may notify Agent of proposed amendments by correspondence addressed directly to Agent, or by a conspicuous notice in a publication (including but not limited to a newsletter or web site) to which Agent has general access.
			2. Effective date.
				1. Non-regulatory amendment. A proposed amendment will become automatically effective without Agents written agreement unless Agent notifies Decent that Agent is terminating this Agreement before the effective date of the amendment.
				2. Regulatory amendment. If Decent proposes an amendment to bring it or Agent into compliance with applicable law or regulation (including an interpretation of the law by a regulatory agency or court), the amendment is effective immediately upon notice to Agent, or upon any other date specified by Decent in the notice.
		2. Other amendments. Any other amendment must be in writing, signed by both parties, and must specify the effective date of the amendment.
	5. Assignment.
		1. Decent may assign. Decent may assign all or any of its rights and responsibilities under this Agreement to any entity controlling, controlled by or under common control with Decent.
		2. Decent may use administrative service providers. Agent acknowledges and agrees that persons and entities under contract with Decent may perform certain of Decent's administrative services under this Agreement.
		3. Agent may assign only with Decent's consent. Agent may not assign any of its rights, responsibilities or compensation payable under this Agreement to any person or entity without the written consent of Decent.
	6. Notices. The parties agree that any written notice required or permitted by this Agreement (except when Decent provides notice of proposed amendments by publication) is effective if addressed to the other party at the address listed below.

Notices to Decent:

Decent, Inc

PO Box 4366

Seattle, WA 98194-0366

E-mail: support@Decent.com

Notices to Agent:

Name on file with Decent at the time of the notice Address on file with Decent at the time of the notice Fax on file with Decent at the time of notice

E-mail on file with Decent at the time of the notice

* + 1. Update addresses. Agent will promptly notify Decent in writing of any change in address. This notice will be deemed to have been properly provided if addressed to the last known address of Decent. For purposes of this Section 8.6, "address" includes an electronic mail ("e-mail") address.
		2. When notice deemed received. Notice sent by mail will be deemed to have been received 3 days after mailing by first- class, postage pre-paid United States mail. Notice sent by any other means will be deemed to have been received when actually received by the receiving party. If notice is served by facsimile or e-mail, notice will be presumed to have been received 24 hours after being sent, unless the receiving party rebuts this presumption with contrary proof.
	1. Entire Agreement. This Agreement (Including any compensation schedules or Addendums that are attached hereto or incorporated into this Agreement by reference) constitutes the entire agreement between Decent and Agent and supersedes any prior agreement, oral or written, between the parties concerning the subject matter of this Agreement.
	2. No Waiver. This Agreement may be amended or modified, and any of the terms or conditions hereof may be waived only in the manner set forth above. Any waiver by any party of any condition, or of the breach of any provision or term contained in this Agreement, in any one or more instances, shall not be deemed to be nor construed as a further or continuing waiver of any such condition, or of the breach of any other provision or term of this Agreement.
	3. Severability. If any provision of this Agreement is held invalid for any reason, the validity of the remainder of the Agreement will not be affected.
	4. Headings. Bold-faced headings are intended as reference guides only and are not to be considered part of the Agreement.
	5. Signatory authority. Decent and Agent each represent and warrant that the person signing this Agreement has the authority to do so and is acting within the scope of his or her authority.
	6. Data Rights. Agent acknowledges that it has no ownership rights in Confidential Information, PHI or any other data provided to it by Decent pursuant to the terms of this Agreement or any Obligations to Decent.
	7. Ownership Interest. The references to each party shall be deemed to include any parent, subsidiary or affiliate (1) in which the party has an equity or other ownership interest, (2) in which such party is a member, or (3) which controls, is controlled by or is under common control with such party.
	8. Amending Attachments. The exhibits to this Agreement may be amended from time to time by Decent. If Agent does not agree to the terms of an amended exhibit, Agent may terminate this Agreement in accordance with the provisions of Section 6.2.

The parties hereby agree on the terms and conditions of this Agreement. In addition, each party hereby certifies that it has not modified, changed or altered, in any way, any provision of this Agreement prior to the execution hereof.

For Decent: For Agent:

Signature Signature

Printed Name Printed Name

SSN / TIN

Title Title

Date Date

**Exhibit A**

**Business Associate Agreement**

This Business Associate Agreement (“BA Agreement”), effective \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Effective Date”), is entered into by and between [BA] (“Business Associate”) and Decent, as agent for and on behalf of its affiliates that are covered entities (collectively, “Covered Entity”).

WHEREAS: Covered Entity and the Business Associate (the “Parties”) are committed to complying with the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”), and other applicable state and federal laws.

WHEREAS: The purpose of the Business Associate Agreement (“BA Agreement”) is to satisfy certain standards and requirements of HIPAA, the Privacy Rule (defined below), the Security Rule (defined below) and breach notification provisions currently being enforced under the Health Information Technology for Economic and Clinical Health Act as set forth in Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) (“HITECH”) and regulations implementing HITECH;.

WHEREAS: Covered Entity is or may be a “covered entity” within the meaning of the HIPAA Regulations. To the extent that Covered Entity discloses protected health information “PHI” to Business Associate in connection with the legal services provided to Covered Entity, Business Associate is or may be a business associate of Covered Entity under the HIPAA Regulations.

WHEREAS: To the extent that Business Associate uses or discloses “PHI” in its performance of services under its engagement with Covered Entity, Business Associate agrees to abide by the assurances, terms, and conditions contained herein in the performance of its obligations.

WHEREAS: This BA Agreement sets forth the terms, conditions, and obligations pursuant to which PHI that is provided by or to, or created or received by, Business Associate from, or on behalf of, Covered Entity, will be handled.

THEREFORE, in consideration of the mutual covenants contained in this BA Agreement and intending to be legally bound, the parties agree as follows:

**SECTION 1. DEFINITIONS**

Any terms used in this Agreement that are not specifically defined herein shall have the same meaning as set forth in the HIPAA regulations.

*Breach* means the acquisition, access, use or disclosure of Unsecured PHI in a manner that violates the Privacy Rule or Security Rule and which compromises the security or privacy of the PHI. A breach does not include:

1. unintentional access or use of Unsecured PHI by an employee or other person working under the authority of Covered Entity or the Business Associate, if the individual was permitted to access PHI generally but not authorized to access the particular PHI accessed and if the action did not result in further impermissible use or disclosure;
2. unintentional disclosure of Unsecured PHI by an individual authorized to access and use PHI by Covered Entity or the Business Associate to another individual permitted to access PHI generally but not authorized to access the particular PHI accessed, if the action did not result in any further impermissible use or disclosure;
3. any brief, fleeting or other disclosure where Covered Entity or the Business Associate has a good faith belief that the unauthorized person who received Unsecured PHI cannot reasonably have been able to retain the PHI.

*Breach Rules and Guidance* mean federal regulations and guidance promulgated by the Secretary to implement HITECH Breach notification requirements and to define how to maintain PHI so that it is not Unsecured, including the Final Rule and Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Non-Discrimination Act, 78 Fed. Reg. 5566 (Jan. 25, 2013), and Guidance Specifying the Technologies and Methodologies that Render PHI Unusable, Unreadable, or Indecipherable, 74 Fed. Reg. 19006 (April 21, 2009).

*Business Associate* means a person who: (i) on behalf of Covered Entity, but other than in the capacity of a member of the workforce, creates, receives, maintains, or transmits PHI for a function or activity regulated by the Privacy Rule, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or any other function or activity regulated by the Privacy and Security Rules; or (ii) provides, other than in the capacity of a member of the workforce, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for Covered Entity, where the provision of the service involves the disclosure of PHI from Covered Entity, or from another business associate of Covered Entity, to the Business Associate. Business associate includes a subcontractor that creates, receives, maintains or transmits PHI on behalf of the business associate.

*Covered Entity* means a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.

*Data aggregation* means, with respect to PHI created or received by a business associate in its capacity as the business associate of a covered entity, the combining of such PHI by the business associate with the PHI received by the business associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

*Designated record set* means Covered Entity’s medical and billing records used in whole or in part to make decisions about Covered Entity’s patients, residents, insureds, participants, etc. The term “record” means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for Covered Entity.

*HIPAA Regulations* means the Privacy Rule, Security Rule, Breach Notification and Enforcement Rules set forth in 45 CFR Part 160 and Part 164.

*Person* means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.

*Privacy Rules* shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E, including, but not limited to, Sections 164.502(e) and 164.504(e).

*Protected health information* means individually identifiable health information that is transmitted or maintained by electronic media or in any other form or medium. PHI excludes individually identifiable health information in employment records held by Covered Entity in its role as employer.

*Secretary* shall mean the Secretary of the Department of Health and Human Services or his or her designee.

*Security Incident* means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of electronic information in an information system or interference with the operation of the information system.

*Security Rule* means the Security Standards for the Protection of Electronic PHI at 45 CFR Part 164, Subpart C) including, but not limited to, Sections 164.308(b) and 164.314(a).

*Standard Transactions and Code Sets Rule* means the administrative requirements contained in 45 CFR Part 162 relating to the standardization of certain electronic transactions.

*Unsecured PHI* means PHI that is not rendered unusable, unreadable or indecipherable to unauthorized persons, because:

1. If electronic PHI, either at rest or in motion, it has not been encrypted using National Institute of Standards and Technology (NIST)-approved encryption techniques, or cleared purged or destroyed using NIST-approved techniques;
2. If PHI in paper, film or other hard copy media, it has not been shredded or destroyed such that the PHI cannot be read or otherwise cannot be reconstructed.

*Workforce* means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such entity or business associate, whether or not they are paid by the covered entity.

**SECTION 2. RELATIONSHIP TO SERVICES AGREEMENT(S) AND PERMITTED USES AND DISCLOSURES OF PHI**

* 1. BA Agreement Incorporated into Services Agreement(s). Covered Entity and Business Associate intend that this BA Agreement shall be an addendum to, and made a part of, any Services Agreement in place between the parties as of the BA Agreement Effective Date or hereinafter executed by the parties.
	2. Services Provided by Business Associate: Except as otherwise limited in this BA Agreement or any Services Agreement, Business Associate may use or disclose PHI to perform the functions, activities, or services for, or on behalf of, Covered Entity, described by such Services Agreement, provided that such use or disclosure would not violate state law or the HIPAA Regulations if done by Covered Entity.

If the above functions, activities or services also include conducting standard transactions as defined by the Standard Transaction and Code Set Rule, Business Associate shall also comply with such Rule and require all agents or subcontractors to comply with such Rule.

2.3. Uses and Disclosures for Business Associate’s Own Purposes. Except as otherwise limited in this BA Agreement or any Services Agreement, Business Associate also may *use* PHI: (i) for the proper management and administration of Business Associate; or (ii) to carry out the legal responsibilities of Business Associate. Business Associate may *disclose* PHI for its proper

management and administration or to carry out its legal responsibilities, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person (which purpose must be consistent with the limitations imposed upon Business Associate pursuant to this BA Agreement and any Services Agreement), and that the person agrees to notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4 Data Aggregation. Except as otherwise limited in this BA Agreement, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).

**SECTION 3. OBLIGATIONS OF BUSINESS ASSOCIATE**

* 1. Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Regulations if done by Covered Entity, except if Covered Entity agrees that the Business Associate may use or disclose PHI for data aggregation or management and administrative activities of Business Associate.
	2. Appropriate Safeguards. Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this BA Agreement and any Services Agreement. Business Associate shall maintain a written information privacy and security program that includes administrative, technical and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI in electronic form or any other medium. Such program shall be reasonably appropriate to the size and complexity of Business Associate’s operations and the nature and scope of its activities.
	3. Reporting of Security Incidents and Possible Breaches. Business Associate agrees to report in writing to Covered Entity as soon as reasonably possible and in any event no later than 20 days after discovery of:
		1. any Security Incident;
		2. any Breach, which notice shall include all information that Covered Entity would need to report the breach to individuals, HHS or the media under HITECH and Breach Rules and Guidance, including:
			+ What happened and the date of the discovery of the breach, if known;
			+ What types of PHI were involved in the Security Incident or unauthorized access, use or disclosure—for example, medical records, SSN, etc.; and
			+ Any steps individuals should take to protect themselves from potential harm resulting from the breach; and
		3. any other use or disclosure of PHI not authorized by this Agreement of which it becomes aware.

Business Associate agrees to cooperate and collaborate with Covered Entity so that Covered Entity may report any Breach by the Business Associate within the time required by the *Breach Rules and Guidance*.

* 1. Business Associate’s Agents. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI agrees to the same restrictions and conditions that apply through this BA Agreement and the HIPAA Regulations to Business Associate, and that such agent agrees to implement reasonable and appropriate safeguards as set forth in this BA Agreement and the HIPAA Regulations to protect such PHI.
	2. Access to PHI. Business Associate shall provide access (at the request of Covered Entity, and in the time and manner designated by Covered Entity) to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual or the Individual’s designee. *See* 45 CFR Section 164.524.
	3. Amendment of PHI. Business Associate shall, at the request of Covered Entity or an Individual and in the time and manner designated by Covered Entity, make any amendment(s) to PHI in a Designated Record Set. If an Individual requests an amendment of PHI directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of receiving such request. Covered Entity shall be responsible for deciding whether or not to amend the PHI maintained by Business Associate. *See* 45 CFR Section 164.526.
	4. Documentation of Disclosures. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI. *See* 45 CFR Section 164.528. At a minimum, such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the 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.
	5. Accounting of Disclosures. Business Associate agrees to provide to Covered Entity, in the time and manner

designated by Covered Entity, information documented in accordance with Sections 3.7 of this BA Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI. In the event that the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall forward such request to Covered Entity in writing within five (5) days of receipt of such request. It shall be Covered Entity’s responsibility to prepare and deliver any such accounting requested. *See* 45 CFR Section 164.528.

* 1. Retention of Protected Health Information. Business Associate and its subcontractors or agents shall retain all PHI throughout the term of the Agreement. Notwithstanding Section 5.3 of this BA Agreement, Business Associate and its subcontractors or agents shall not destroy records that remain subject to the six-year records retention requirements of the HIPAA Regulations, including the accounting required under Sections 3.7 and 3.8 of this BA Agreement, but shall either maintain such records pursuant to section 5.3(b) or return them to Covered Entity. *See* 45 CFR Sections 164.316(b) (records retention requirement in Security Rule); 164.530(j) (records retention requirement in Privacy Rule).
	2. Governmental Access to Records. Upon notification to Covered Entity, to make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary of the Department of Health and Human Services, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the HIPAA Regulations.
	3. Mitigation. Business Associate agrees to mitigate, to the extent practicable and in coordination with Covered Entity, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this BA Agreement or the applicable Services Agreement.
	4. Minimum Necessary. Business Associate (or its agents or subcontractors) shall only request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure.

**SECTION 4. OBLIGATIONS OF COVERED ENTITY**

* 1. Disclosure of PHI. To the extent permitted by law, Covered Entity agrees to disclose PHI to the Business Associate as necessary for the Business Associate to provide the agreed-upon services for Covered Entity, unless Covered Entity otherwise objects to the disclosure or the Business Associate is no longer providing the services to Covered Entity. Covered Entity may rely on a representation by the Business Associate that PHI requested by the Business Associate is the minimum amount necessary for the Business Associate to perform agreed upon services for Covered Entity.
	2. Notifications of Limitations, Revocation, Restrictions. Covered Entity shall promptly notify the Business Associate of any additional restrictions on disclosures of PHI, confidential communications, amendments to PHI or other matters to which Covered Entity, or another business associate of Covered Entity, has agreed, to the extent that such agreement may affect uses and disclosures of PHI by the Business Associate. If the Business Associate is using or disclosing PHI pursuant to the authorization of an individual, Covered Entity shall promptly notify the Business Associate if Covered Entity receives a revocation of such authorization.

**SECTION 5. TERM AND TERMINATION**

* 1. Term. The Term of this BA Agreement shall commence as of the BA Agreement Effective Date, and shall terminate at the time that Covered Entity and Business Associate have no ongoing contractual relationship under a Services Agreement, when this BA Agreement is terminated pursuant to Section 5.2, or when all the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity or, if it is not feasible to return or destroy the PHI, Covered Entity receives written assurance from Business Associate that protections are extended to such information, in accordance with the termination provisions in this Section.
	2. Termination for cause. Upon Covered Entity’s knowledge of a material breach by Business Associate, Covered Entity shall either:
		1. Provide an opportunity for Business Associate to cure the breach, or end the violation and terminate this BA Agreement and any Service Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
		2. Immediately terminate this BA Agreement and any Service Agreement if Business Associate has breached a material term of this BA Agreement and cure is not possible; or
		3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary of the Department of Health and Human Services.
	3. Effect of Termination
		1. Except as provided in paragraph (b) of this section, upon termination of this BA Agreement for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

Business Associate shall retain no copies of the PHI.

* + 1. If Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide Covered Entity with notification of the conditions that make return or destruction infeasible. Upon mutual agreement between the parties that return or destruction of PHI is not feasible, Business Associate shall extend the protections of this BA Agreement 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 Business Associate maintains such PHI.

**SECTION 6. MISCELLANEOUS**

6.1. Regulatory references. A reference in this BA Agreement to a section in the HIPAA Regulations means the section in effect, or as amended.

6.2 No third-party beneficiaries. These Terms and Conditions are intended for the sole benefit of the Business Associate and Covered Entity and do not create any third-party beneficiary rights, except as to the extent that the HIPAA Regulations validly requires the Secretary of the Department of Health and Human Services or any other person to be a third-party beneficiary to this BA Agreement.

* 1. Amendment. The Parties agree to take such action as is necessary to amend this BA Agreement from time to time as is necessary for Covered Entity and Business Associate to comply with the requirements of HIPAA and the HIPAA Regulations.
	2. Survival. The respective rights and obligations of Business Associate under Section 5.3 of this BA Agreement shall survive the termination of this BA Agreement.
	3. Interpretation. Any ambiguity in this BA Agreement shall be resolved to permit Covered Entity and Business Associate to comply with the HIPAA Regulations.
	4. Incorporation of Recitals. The aforesaid Recitals are hereby incorporated into this BA Agreement as if fully set forth

herein.

* 1. Severability. In the event that any provision of the Terms and Conditions are held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this BA Agreement will remain in full force and effect. In addition, in the event a party believes in good faith that any provision of the Terms and Conditions fails to comply with the then-current requirements of the HIPAA Regulations, such party shall so notify the other party in writing. For a period of up to thirty days, the parties shall address in good faith such concern and shall amend the terms of this BA Agreement if necessary to bring it into compliance. If after such thirty day period these Terms and Conditions fail to comply with the HIPAA Regulations with respect to the concern(s) raised pursuant to this Paragraph, then either party has the right to terminate this BA Agreement upon written notice to the other Party.

The parties have caused this BA Agreement to be executed on the date first written above.

# COVERED ENTITY:

**DECENT, INC.**

As an agent for and on behalf of its affiliates that are covered entities

BY: Date:

Title:

# BUSINESS ASSOCIATE

# AGENT

BY: Date:

Title:

# Exhibit B Commission Schedule

**Base Commission**: 5% of total premium for new and renewal policies

**Exhibit C**

 Check here if you are not working with an Agency *(if checked, no additional information is required for Agency)*

|  |
| --- |
| **AGENT INFORMATION FORM** |
|  |  |  |  |
| Last Name | First Name | Middle Name | Suffix |
|  |  |
| Date of Birth | SSN |
|  |  |
| Phone Number | Email Address |

|  |
| --- |
| **Mailing Address:** |
|  |  |  |  |
| Street Address | City | State | Zip Code |

|  |
| --- |
| **Residential Address:** |
|  |  |  |  |
| Street Address (no P. O. Box) | City | State | Zip Code |

Texas License Number - General Lines Agent (Life, Accidental, Health and HMO)

**AGENCY INFORMATION**

|  |  |
| --- | --- |
|  |  |
| Legal Entity Name | dba Name |
|  | Entity:  Corp  LLP  LLC Sole Proprietor  Other  |
| TIN |

|  |  |
| --- | --- |
|  |  |
| Phone Number | Fax Number |
|  |  |
| Email Address | Website Address |

|  |
| --- |
| **Mailing Address:** |
|  |  |  |  |
| Street Address | City | State | Zip Code |
|  |
| **Business Address:** |
|  |  |  |  |
| Street Address (no P. O. Box) | City | State | Zip Code |

Commissions Assigned to Agency noted above?  Yes  No

|  |  |  |
| --- | --- | --- |
| **Question**All Agents must complete all questions in this section. Please check Yes or No.If you answer Yes to any question, please attach a separate sheet with an explanation. | **YES** | **NO** |
| 1 | Have you ever pled guilty or been convicted of a felony (either state or federal) or misdemeanor (including participation in court-ordered programs and excluding minor traffic offenses)? |  |  |
| 2 | Has your insurance license ever been suspended or revoked? |  |  |
| 3 | Have you ever had an appointment terminated "For Cause" by any insurer or financial services institution? |  |  |
| 4 | Have you ever been investigated or fined by an Insurance Regulatory Authority? |  |  |
| 5 | Do you owe any debt or balance to any insurer, general agent, or financial service institution that has remained overdue for more than 60 days? |  |  |
| 6 | Have you ever been the subject of a bankruptcy petition or proceeding in the last seven (7) years? |  |  |
| 7 | Are there any outstanding liens or judgments against you? |  |  |
| 8 | Have you ever been excluded, or are you aware of actions that could result in exclusion, by the GIG from participation in a government health care program, including Medicare or Medicaid? |  |  |
| 9 | Have you ever been barred, or are you aware of actions that could result in debarment, by the General Service Administration from being a government contractor? |  |  |

I am hereby notified that inquiries may be made by Decent, its affiliates, and/or outside entities regarding my character, general reputation, business experience, credit history, personal characteristics, and insurance license status I authorize such knowledge/information to be released to Decent or its legal representative (upon written request, additional information as to the nature and scope of the report can be provided ) A photocopy or facsimile of this signed authorization shall be as valid as the original. Under penalties of perjury, I certify that information provided by me in this application or in any accompanying documents is correct and complete and the number shown on this form is my correct taxpayer identification number and I am not subject to backup withholding. If appointed to represent Decent and its affiliates, I understand that I am considered an independent contractor, and not an employee of such company. This application and any attachments become a part of the agent file with Decent that I am appointed to represent. This form is not valid until signed and dated.

Signature

Print Name

Date

# Agent Licensing & Appointment Checklist

Please submit appointment paperwork prior to quoting business to Decent’s Marketing Department to ensure that commissions payments will not be delayed.

# Agent Agreement

Each Agent must complete and sign an Agent Agreement. If an agent works with an agency that is also seeking a Decent appointment, a separate agreement must be completed by the individual agent and an authorized representative for the agency.

# Business Associate Agreement

Each Agent must complete and sign a Business Associate Agreement.

# Agent Information Form

Each Agent must complete and sign an Agent Information Form. If an agent works with an agency that is also seeking a Decent appointment, a separate Agent Information Form must be completed by the individual agent and an authorized representative for the agency.

# License Copy

Each Agent and Agency seeking a Decent appointment must provide a current copy of their Texas Life, Accident, Health and HMO license to sell Decent products.

# Certificate of Insurance for Professional Liability / Errors and Omissions Copy

Each Agent and Agency seeking a Decent appointment must provide a current copy of their proof of Professional Liability / Errors and Omissions policy.