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- ☐ Market Access Addendum Application
- ☐ Advisor Agent Addendum Application
- ☐ Exclusive Agent Addendum Application

ADDENDUM TO AGENCY AGREEMENT

This Addendum to Appalachian Underwriters, Inc. Agency Agreement (“Addendum Agreement”) made this the ____ day of _____, 20__ by and between _____ (“AGENT”) having its principal place of business at _____ and Appalachian Underwriters, Inc., (“AUI”), having its principal place of business at 800 Oak Ridge Turnpike, Suite 800, Oak Ridge, TN 37830 with mailing address of PO Box 800, Oak Ridge, TN 37831. Hereinafter sometimes referred to individually as “Party or collectively as “Parties.

PURPOSE OF AGREEMENT

WHEREAS, AUI desires to offer a program to allow Agent access to various insurance coverage and additional products and services through its Direct Select Agencies program;

WHEREAS, AUI desires to make its Direct Select Agencies program available to Agent on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein and for other good and valuable consideration, the parties hereto agree as follows:

1. TERM OF AGREEMENT

The term of this Agreement shall be for one year. This Addendum Agreement shall automatically renew each year after the initial one-year period for a period of one year unless either party shall have given written notice (30 days) prior to end of such termination of this Agreement. Notwithstanding the foregoing, AUI may terminate Agents ability to access a Carrier(s) at any time by providing written notice of termination to Agent. Such notice shall be effective as provide in *Section 17*.

2. TERMINATION OR SUSPENSION

- a. This Addendum Agreement shall terminate:
 - i. Automatically if any public authority cancels or declines to renew the Agent’s insurance license or certificate of authority.
 - ii. Automatically on the effective date of the sale or transfer of the majority interest of the Agent’s business, or its consolidation with a successor firm, unless Agent follows procedures as provided in *Section 11*.
 - iii. Immediately in the event of misrepresentation of any matters set forth herein, abandonment, fraud, insolvency or gross and willful misconduct on the part of such Agent.

- b. If the Agent is delinquent, in either accounting or payment of monies due to AUI, then AUI may, by notice to the Agent, suspend the Agent's authority to change any existing policy or submit applications for quotes during this delinquency. This provision shall not apply to routine differences in the accounting records of the Agent and AUI which are minor in amount and do not involve premiums collected and withheld by the Agent.

3. BINDING AUTHORITY

Agents approved for Market Access understand and acknowledge that it does **not** have any direct, express or implied authority to bind AUI or the applicable carrier for coverage on any risk except as agreed to in writing by AUI. Agents approved for Advisor and Exclusive Access shall have binding authority within the respective carriers' underwriting guidelines.

4. COMPENSATION

4.1 Agent shall be paid a percentage of the "Commission" received by AUI on all Direct Select Agencies business as outlined in the Commissions Schedule attached hereto as Exhibit A.

4.2 AUI shall pay any commission due to Agent monthly.

5. PROGRAM FEES

Approved Agents for the Direct Select Agencies Program shall pay fees for products and services provided by AUI. These fees and the frequency of the payment of the fees are outlined in the Program Fees Exhibit attached hereto as Exhibit B. Failure to make timely payment of the fees shall result in termination for cause or suspension of the Agent's access to products and services provided by AUI under this agreement.

6. PROGRAM REQUIREMENTS

Approved Agents for the Direct Select Agencies Program must meet minimum Program Requirements as outlined in the Program Requirements Exhibit attached hereto as Exhibit C. Failure to meet Program Requirements may at the sole discretion of AUI lead to reduction in Agent's commission split, non-renewal of the agreement or renewal at a lower program access.

7. BOOK OF BUSINESS

Agent acknowledges and understands that the Book of Business related to the Direct Select Agencies program shall be owned and controlled by AUI.

8. ERRORS AND OMISSION COVERAGE, LICENSURE AND REPRESENTATIONS

7.1 Agent shall maintain Errors and Omissions Coverage with minimum limits in the amounts of one million dollars (\$1,000,000.00) for each individual occurrence and one million dollars (\$1,000,000.00) aggregate coverage. Agent shall provide written evidence of Errors and Omissions Coverage upon execution of this Agreement and upon annual renewal of coverage either electronically or via facsimile to AUI principal place of business. Agent shall continually maintain such Errors and Omissions Coverage throughout the term of this Agreement and shall ensure that AUI Receives timely notice if there should be any cancellation, change or any modification of coverage.

8.2 Agent acknowledges, represents and warrants that it possesses valid licenses to negotiate, solicit, and transact insurance in the name or names of the Agent, as set forth in the Agreement. Agent further, acknowledges, represents and warrants that such licenses shall be maintained in full force and effect in all states in which Agent is transacting business with AUI and Carriers. Agent agrees to report such suspension or revocation to AUI and Carrier(s) by certified mail, return receipt requested within Three (3) days of such suspension or revocation.

8.3 Agent shall provide true and complete applications. Agent represents and warrants that such applications shall contain no material misrepresentations of any kind of which Agent is or should be aware. Agent shall ensure that all material facts are accurately described and completely disclosed to AUI and Carriers. Further, it is the duty and obligation of the Agent to make AUI and Carrier aware of any material changes of which Agent is or should be aware of affecting the risk during the pendency of the policy period and at any subsequent renewal.

9. OPERATING PROCEDURES

9.1 Agent shall abide by operating procedures and or guidelines set forth by AUI and the Carrier and failure to follow AUI or Carrier guidelines or procedures shall be a breach of this Agreement.

9.2 Operating Procedures may be modified or revised by AUI or Carriers from time to time, and Agent shall comply with the terms of the Operating Procedures, as revised.

10. INDEMNIFICATION

a. Agent agrees to hold harmless, reimburse and indemnify AUI, its parents, affiliates, subsidiaries and their authorized representatives, officers, agents and employees against any and all liability for any judgments, awards, expenses, fines, penalties, attorney's fees, or other claims for damages in connection with any suit, complaint, charge, proceeding or action of any kind arising out of the performance or nonperformance by Agent of its duties and responsibilities under this Agreement, unless such performance or nonperformance occurred at the direction of or was caused by AUI. This hold harmless and indemnification requirement includes but is not limited to compensatory or consequential damages, punitive damages, regulatory fines and penalties and extra-contractual liability.

b. AUI agrees to hold harmless, reimburse and indemnify Agent, its parent, affiliates, subsidiaries and their authorized representatives, officers, agents and employees against any and all liability for any judgments, awards, expenses, fines, penalties, attorney's fees, or other claims for damages in connection with any suit, complaint, charge, proceeding or action of any kind arising out of the performance or nonperformance by AUI of its duties and responsibilities under this Agreement, unless such performance or nonperformance occurred at the direction of or was caused by the Agent. This hold harmless and indemnification includes but is not limited to compensatory or consequential damages, punitive

damages, regulatory fines and penalties and extra-contractual liability.

c. The Party to be indemnified shall provide prompt notice to the indemnifying party of any claim against the indemnified party for which indemnification will or could be made under this Agreement and shall provide reasonable cooperation to the indemnifying party in defending such claim.

d. In the event Agent receives any inquiry, complaint, or other notice from any regulatory or governmental body regarding business placed under or involving this Agreement, Agent shall immediately notify AUI of any such inquiry, complaint, or other notice.

e. This Section 8 shall survive the termination of this Agreement.

11. NON-COMPETE AND NON-SOLICITATION COVENANT AGREEMENT

11.1 In consideration of AUI providing access to comparative rating systems, assisting Agent in receiving a sub producer code and access to quotes from Carriers which AUI has a business relationship, Agent agrees to not compete or solicit direct appointments from Carriers.

11.2 The Parties agree that the Covenant Not to Compete or Solicit direct appointments shall be effective for a one-year period from the date the Agent receives a sub producer code for a Carrier as a result of this Agreement.

11.3 Agent agrees that the Covenant Not to Compete or Solicit direct appointments from Carriers shall apply in all States that the Agent is licensed and has received a sub producer code as a result of this agreement.

11.4 The Parties agree that breach of the Covenant Not to Compete or Solicit direct appointment with Carriers for which Agent has obtained a sub producer code as a result of this Agreement would be difficult to quantify.

11.5 The Parties agree that Fifty Thousand Dollars (\$50,000.00) in liquidated damages would be adequate remedy for breach of the Covenant Not to Compete or Solicit and would be due AUI in the event of breach.

12. EXPENSES OF THE AGENT

AUI shall not be responsible for any of the expenses of the Agent.

13. AGENT SALE OR TRANSFER

The Agent agrees to give thirty (30) days-notice to AUI of any potential sale or transfer of majority interest of Agent's business, or its consolidation with a successor firm and immediate notice in event of valid sale or transfer. This agreement has been entered into based on consideration of Agent's experience and services. Any assignment, sale or transfer of the Agent's business may subject this agreement to termination and no business shall be submitted by or renewed with new owner without approval by an authorized officer of AUI.

14. BOOKS AND RECORDS

AUI shall have access at all reasonable times to the Agent's books and records and be entitled to make copies if necessary, for purposes of determining any fact relating to any money due, regulatory complaint or any issue regarding business placed by the Agent with AUI. Agent shall maintain books and records regarding said business submitted and/or placed with AUI for at least five (5) years.

15. PRIVACY

Both parties shall be prohibited from disclosing or using any nonpublic personal financial information or nonpublic personal health information related to any policyholder, beneficiary, consumer or customer (as such terms are defined under applicable state and federal privacy laws), except as necessary to carry out its duties and obligations under this Agreement or otherwise required under applicable state or federal law, including, without limitation, the Gramm-Leach-Bliley Act, and any state law or regulation implementing the same.

16. CONFIDENTIAL INFORMATION

The Parties agree that all information regarding this Agreement, including but not limited to business plans and strategies, regulatory filings, pricing, systems and technology obtained or disclosed as a result of this Agreement, is proprietary to each of the Parties as specifically provided to each other and such information shall remain proprietary to such Party and shall at all times remain and be kept confidential by the Parties (the "Confidential Information"). Confidential Information shall not be deemed to include information that: (i) is or becomes publicly known and generally available in the public domain through no act or omission of the receiving Party; (ii) is known by the receiving Party, without confidentiality restrictions, at the time of receiving such information as evidenced by its contemporaneous written records; (iii) is lawfully disclosed to the receiving Party by a third party without restriction on use or disclosure to the receiving Party's knowledge upon reasonable investigation; or (iv) is independently developed by or for the receiving Party without use of or reference to the other party's Confidential Information as evidenced by its contemporaneous written records. The receiving Party may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or other administrative or legal process; provided, however, that the receiving Party has provided the disclosing Party with prompt written notice, if and to the extent permitted by applicable law, thereof so that the disclosing Party may seek a protective order or other appropriate remedy, at its cost, and that, if such protective order or other remedy is not obtained, the receiving Party furnishes only that portion of the Confidential Information that is legally required. The foregoing notwithstanding, nothing herein requires the receiving Party to breach any applicable law, regulation, order of a court of competent jurisdiction, administrative agency or governmental body or any subpoena, summons or other administrative or legal process. Each Party shall maintain the other Party's Confidential Information in confidence and shall not disclose any of the other Party's Confidential Information to any third party without the other Party's written permission, not to be unreasonably withheld or delayed; provided further that any such third party agrees to be contractually bound

by the confidentiality obligations of this Agreement. This Section shall survive termination of this Agreement.

17. COUNTERPARTS

This Agreement may be signed and delivered in one or more counterparts, all of which shall be deemed an original, and together they shall constitute one and the same Agreement. A facsimile or e-mailed signature shall have the same effect as original signatures.

18. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the Parties and:

- i) Shall be effective.
- ii) Shall remain in force and effect for the term of the Agreement unless suspended or terminated as provided herein.
- iii) No amendments to or modifications of the Agreement shall be valid unless made in writing and executed by an authorized representative of each Party in the form of an Addendum to this Agreement, except in respect to commissions, which may be changed by agreement of each Party in writing other than by Addendum to this Agreement.

19. NOTICES

All notices required under this Agreement shall be sent to the addresses provided in the beginning of this Agreement. All notices under this Agreement shall be deemed given: i) when delivered by hand; ii) one day after being sent by commercial overnight courier with written verification of receipt; or iii) three days after being sent by registered or certified mail, return receipt requested, postage prepaid. Either Party may from time to time change its address for notification purposes by giving the other Party written notice of the new address and the date upon which it will become effective.

20. ASSIGNMENT

Agent shall not assign or transfer this Agreement or any rights or obligations under this agreement without AUI's prior written consent. A change in control of Agent/Agency constitutes an unauthorized assignment under this Agreement. Any unauthorized assignment or transfer of this Agreement or any rights or obligations thereunder, shall be void and constitutes grounds for immediate termination of this Agreement at the sole discretion of AUI.

21. NO WAIVER

Any waiver is only valid to the extent expressly set forth in writing. No waiver by either Party of any right under this Agreement shall constitute a subsequent or continuing waiver of such right or any other rights under this Agreement.

22. SEVERABILITY

If any provision or portion of this Agreement should be determined by any court or agency of competent jurisdiction to be invalid, illegal or unreasonable, in whole or in part in any jurisdiction, and such determination should become final, such provision or portion shall be deemed severed in such jurisdiction, but only to the extent required to render remaining provisions and portions of this Agreement enforceable, and this Agreement as thus amended shall be enforced in such jurisdiction to give effect to the intention of the Parties insofar as that is possible, and further, this Agreement shall continue without amendment in full force and effect in all other jurisdictions. In the event of any such determination, the Parties shall negotiate in good faith to modify this Agreement to fulfill as closely as possible the original intents and purposes hereof.

23. WAIVER OF TRIAL BY JURY

BOTH PARTIES WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTERS WHATSOEVER CONCERNING THIS AGREEMENT THAT RESULT IN LEGAL RECOURSE.

24. CHOICE OF LAW

This Agreement shall be governed and construed in accordance with the laws of the State of Tennessee. Each Party hereby irrevocably and unconditionally consents to the exclusive jurisdiction of the federal and state courts in the State of Tennessee for any action, suit or proceeding arising out or related hereto. Each party further hereby irrevocably and unconditionally waives any objection to Anderson County, Tennessee as proper venue of any action, suit or proceeding arising out of or relating to this Agreement in the federal and state courts of the State of Tennessee, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in any inconvenient forum.

IN WITNESS WHEREOF, the Parties have executed or caused this Agreement to be executed by their duly authorized offices as of the day and year listed below.

By: _____
Title: _____
Dated: _____

Appalachian Underwriters, Inc.

By: Robert J. Arowood
Title: President
Dated: _____