

**CORPORATE INTEGRITY AGREEMENT
BETWEEN THE
OFFICE OF INSPECTOR GENERAL
OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
UNIVERSAL AMERICAN CORP.**

I. PREAMBLE

Universal American Corp. (Universal American) hereby enters into this Corporate Integrity Agreement (CIA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) to promote compliance with the statutes, regulations, and written directives of Medicare, Medicaid, and all other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) (Federal health care program requirements). Contemporaneously with this CIA, Universal American is entering into a Settlement Agreement with the United States.

Prior to the execution of this CIA, Universal American established a Corporate Compliance Program (CCP). The CCP includes, among other things, a Code of Conduct, compliance training, a mechanism for individuals to report incidents of non-compliance, a Compliance Committee, and a Compliance Officer. Universal American and OIG agree that Universal American may utilize and adapt any component of the CCP existing at the time of the execution of this CIA as necessary to be in compliance with the integrity obligations created by this CIA. To the extent that Universal American's existing CCP cannot be modified or maintained to meet corporate integrity obligations created by this CIA, Universal American shall adopt new components to its CCP or create a new compliance program, so that Universal American shall meet the corporate integrity obligations created by this CIA.

II. TERM AND SCOPE OF THE CIA

A. The period of the compliance obligations assumed by Universal American under this CIA shall be five years from the effective date of this CIA. The “Effective Date” shall be the date on which the final signatory of this CIA executes this CIA, unless otherwise specified. Each one-year period, beginning with the one-year period following the Effective Date, shall be referred to as a “Reporting Period.”

B. Sections VII, X, and XI shall expire no later than 120 days after OIG’s receipt of: (1) Universal American’s final annual report; or (2) any additional materials submitted by Universal American pursuant to OIG’s request, whichever is later.

C. The scope of this CIA shall be governed by the following definitions:

1. “Covered Persons” includes:
 - a. all owners of Universal American who are natural persons (other than shareholders who: (1) have an ownership interest of less than 5%, and (2) acquired the ownership interest through public trading);
 - b. all officers, directors, and employees of Universal American who have responsibilities relating to Universal American’s Medicare Advantage Plans; and
 - c. all contractors, subcontractors, agents, and other persons who perform direct marketing or enrollment functions for the Medicare Advantage business of Universal American, or who make any requests for payment or funding from any governmental agency, on behalf of Universal American for such functions.

Notwithstanding the above, this term does not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than 160 hours per year, except that any such individuals shall become “Covered Persons” at the point when they work more than 160 hours during the calendar year.

2. “Relevant Covered Persons” includes all officers and directors of

Universal American, and all Covered Persons who are involved with the development, approval, management, implementation, use or review of Universal American's Medicare Advantage advertising, marketing, promotional, and enrollment policies and practices, including agents and brokers selling Medicare Advantage products, or who make requests for payment or funding from any governmental agency, on behalf of Universal American.

III. CORPORATE INTEGRITY OBLIGATIONS

Universal American shall establish and maintain a Compliance Program that includes the following elements:

A. Compliance Officer and Committee

1. *Compliance Officer.* Universal American has appointed an individual to serve as its Compliance Officer and shall maintain a Corporate Compliance Officer (Compliance Officer) for the term of the CIA. The Compliance Officer shall be responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and with Federal health care program requirements. The Compliance Officer shall be a member of senior management of Universal American, shall report directly to the Chief Executive Officer of Universal American, shall make periodic (at least quarterly) reports regarding compliance matters directly to the Board of Directors (or a Committee of the Board with direct responsibility for overseeing compliance-related matters) of Universal American, and shall be permitted to report on such matters to the Board of Directors or Compliance Committee at any time. The Compliance Officer shall not be or be subordinate to the General Counsel or Chief Financial Officer. The Compliance Officer shall be responsible for monitoring the day-to-day compliance activities engaged in by Universal American as well as for any reporting obligations created under this CIA. Any noncompliance job responsibilities of the Compliance Officer shall be limited and must not interfere with the Compliance Officer's ability to perform the duties outlined in this CIA.

Universal American shall report to OIG, in writing, any change in the identity of the Compliance Officer, or any actions or changes that would affect the Compliance Officer's ability to perform the duties necessary to meet the obligations in this CIA, within five days after such a change.

2. *Compliance Committee.* Universal American has appointed a Compliance Committee. The Compliance Committee shall, at a minimum, include the

Compliance Officer and other members of senior management necessary to meet the requirements of this CIA (e.g., senior executives of relevant departments, such as Regulatory Affairs, Human Resources, Marketing, Reimbursement and Sales, Audit, and Operations). The Compliance Officer shall chair the Compliance Committee and the Committee shall support the Compliance Officer in fulfilling his/her responsibilities (e.g., shall assist in the analysis of Universal American's risk areas and shall oversee monitoring of internal and external audits and investigations). The Compliance Committee shall meet at least quarterly.

Universal American shall report to OIG, in writing, any changes in the composition of the Compliance Committee, or any actions or changes that would affect the Compliance Committee's ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

3. *Board of Directors Compliance Obligations.* Universal American's Board of Directors has established and shall maintain during the Term of this CIA a Compliance Committee of the Board of Directors (Board Committee) which shall consist of at least three members of the Board of Directors, and shall be responsible for the review and oversight of matters related to compliance with Federal health care program requirements and the obligations of this CIA.

The Board Committee shall, at a minimum, be responsible for the following:

- a. meeting at least quarterly to review and oversee Universal American's Compliance Program, including but not limited to the performance of the Compliance Officer and Compliance Committee;
- b. ensuring that Universal American adopts and implements policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and Federal health care program requirements; and
- c. for each Reporting Period of the CIA, adopting a resolution, signed by each member of the Board Committee summarizing its review and oversight of Universal American's compliance with Federal health care program requirements and the obligations of this CIA.

At minimum, the resolution shall include the following language:

“The Board Committee has made a reasonable inquiry into the operations of Universal American’s Compliance Program including the performance of the Compliance Officer and the Compliance Committee. Based on its inquiry and review, the Board Committee has concluded that, to the best of its knowledge, Universal American has implemented an effective Compliance Program to meet the applicable Federal health care program requirements and the obligations of the CIA.”

If the Board Committee is unable to provide such a conclusion in the resolution, the Board Committee shall include in the resolution a written explanation of the reasons why it is unable to provide the conclusion and the steps it is taking to implement an effective Compliance Program at Universal American.

Universal American shall report to OIG, in writing, any changes in the composition of the Board Committee, or any actions or changes that would affect the Board Committee’s ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

B. Written Standards

1. *Code of Conduct.* Within 90 days after the Effective Date, Universal American shall develop, implement, and distribute a written Code of Conduct to all Covered Persons. Universal American shall make the promotion of, and adherence to, the Code of Conduct an element in evaluating the performance of all employees. The Code of Conduct shall, at a minimum, set forth:

- a. Universal American’s commitment to full compliance with all Federal health care program requirements, including its commitment to market, promote, advertise, provide information about, and enroll individuals in its Medicare Advantage Plan in accordance with Federal health care program requirements, and other conditions of participation in the Medicare Advantage program;
- b. Universal American’s requirement that all of its Covered Persons shall be expected to comply with all Federal health

care program requirements and with Universal American's own Policies and Procedures;

- c. the requirement that all of Universal American's Covered Persons shall be expected to report to the Compliance Officer, or other appropriate individual designated by Universal American, suspected violations of any Federal health care program requirements, Centers for Medicare and Medicaid Services' (CMS) conditions of participation; or of Universal American's own Policies and Procedures; and
- d. the right of all individuals to use the Disclosure Program described in Section III.E, and Universal American's commitment to nonretaliation and to maintain, as appropriate, confidentiality and anonymity with respect to such disclosures.

Within 90 days after the Effective Date, each Covered Person shall certify, in writing, that he or she has received, read, understood, and shall abide by Universal American's Code of Conduct. New Covered Persons shall receive the Code of Conduct and shall complete the required certification within 60 days after becoming a Covered Person or within 90 days after the Effective Date, whichever is later.

Universal American shall periodically review the Code of Conduct to determine if revisions are appropriate and shall make any necessary revisions based on such review. Any substantive revisions (i.e., those other than date changes or correction of typographical errors) of the Code of Conduct shall be distributed within 30 days after any revisions are finalized. Each Covered Person shall certify, in writing or in electronic format, that he or she has received, read, understood, and shall abide by the revised Code of Conduct within 60 days after the distribution of the revised Code of Conduct.

2. *Policies and Procedures.* Within 90 days after the Effective Date, Universal American shall implement written Policies and Procedures regarding the operation of its compliance program, and its compliance with Federal health care program requirements. At minimum, the Policies and Procedures shall address:

- a. the compliance program requirements outlined in this CIA;

- b. the subjects relating to the Code of Conduct identified in Section III.B.1;
- c. Federal health care program requirements for marketing, advertising, and enrollment with respect to Managed Care Plans, including the Centers for Medicare and Medicaid Services' Medicare Managed Care Marketing and Enrollment regulations, directives and guidelines;
- d. appropriate ways to conduct Medicare Advantage plan marketing, advertising, and enrollment activities in compliance with all applicable Federal health care program requirements, including, but not limited to, the Federal Anti-Kickback Statute (codified at 42 U.S.C. § 1320a-7b), the beneficiary inducement prohibition (codified at 42 U.S.C. § 1320a-7a(a)(5)), and the False Claims Act (codified at 31 U.S.C. § 3729-3733);
- e. disciplinary policies and procedures for violation of Universal American's Policies and Procedures, including policies relating to Federal health care programs requirements;
- f. Universal American's commitment to provide prospective Medicare Advantage enrollees with complete and accurate information about the Medicare Advantage program, Universal American's Medicare Advantage plan and the Medicare Advantage enrollment process;
- g. compensation (including salaries, bonuses, and contests) for Relevant Covered Persons who are sales representatives. These Policies and Procedures shall: (1) be designed to ensure that financial incentives do not inappropriately motivate such individuals to engage in improper promotion, sales, and marketing of Universal American's Medicare Advantage Plan; (2) include mechanisms, where appropriate, to exclude from incentive compensation sales that may indicate violations of applicable marketing and enrollment regulations, directives and guidelines, the Federal Anti-Kickback Statute

(codified at 42 U.S.C. § 1320a-7b), the beneficiary inducement prohibition (codified at 42 U.S.C. § 1320a-7a(a)(5)), or the False Claims Act (codified at 31 U.S.C. § 3729-3733); and

- h. provide a Marketing and Enrollment Expenditure Tracking System (“tracking system”) for all expenditures made in connection with Universal American’s Medicare Advantage marketing and enrollment activities (“expenditures”). The tracking system will consist of all accounts and subaccounts in Universal American’s financial accounting system which include expenditures. At the request of, and in a manner acceptable to the Independent Review Organization (“IRO”), Universal American will group the expenditures in a data universe to enable the IRO to draw a random sample of expenditures for purposes of the Marketing Expenditure Review Report (Appendix B). In addition, Universal American will maintain sufficient information regarding each expenditure to identify the amount, payee and purpose or type of expenditure, along with appropriate supporting documentation (whether imaged or hard copy), such as vendor invoices, check requests, receipts, claims for reimbursement, and expense reports, which shall be made available to the IRO upon request.

Within 90 days after the Effective Date, the Policies and Procedures shall be distributed (via intranet or otherwise) to all Covered Persons. Appropriate and knowledgeable staff shall be available to explain the Policies and Procedures.

At least annually (and more frequently, if appropriate), Universal American shall assess and update, as necessary, the Policies and Procedures. Within 60 days after the effective date of any revisions, any such revised Policies and Procedures shall be distributed (via intranet or otherwise) to all Covered Persons.

C. Training and Education

1. *General Training.* Within the period commencing 180 days prior to and 90 days after the Effective Date, Universal American shall provide at least two hours of General Training to each Covered Person. This training, at a minimum, shall explain Universal American's:

- a. CIA requirements; and
- b. Universal American's Compliance Program, including the Code of Conduct.

New Covered Persons shall receive the General Training described above within 60 days after becoming a Covered Person or within 90 days after the Effective Date, whichever is later. After receiving the initial General Training described above, each Covered Person shall receive at least one hour of General Training in each subsequent Reporting Period.

2. *Specific Training.* Within 120 days after the Effective Date, each Relevant Covered Person shall receive at least two hours of Specific Training in addition to the General Training required above. This Specific Training shall include a discussion of:

- a. CMS' Medicare Managed Care Marketing and Enrollment guidelines, and information on the plan products that Universal American intend to market.
- b. policies, procedures, and other requirements applicable to the advertising, marketing, and promotion of Universal American's Medicare Advantage plan;
- c. the personal obligation of each individual involved in the Medicare Advantage advertising, marketing and promotion process to provide Federal health care beneficiaries with complete information about the Medicare Advantage enrollment process and Universal American's Medicare Advantage plan; and to refrain from providing payment or anything of value to doctors, their staff, or to Federal health care beneficiaries as an inducement to refer individuals to or join Universal American's Medicare Advantage plan;

- d. applicable CMS regulations, program requirements, and directives;
- e. the legal sanctions for violations of Federal health care program requirements, including the legal sanctions under the Federal Anti-Kickback Statute, the beneficiary inducement statute and the False Claims Act; and
- f. examples of Anti-Kickback Statute violations.

New Relevant Covered Persons shall receive this training within 60 days after the beginning of their employment or becoming Relevant Covered Persons, or within 90 days after the Effective Date, whichever is later.

After receiving the initial Specific Training described in this section, each Relevant Covered Person shall receive at least one hour of Specific Training, in addition to the General Training, in each subsequent Reporting Period.

3. *Board Member Training.* Within 90 days after the Effective Date, Universal American shall provide at least one hour of training to each member of the Board of Directors, in addition to the General Training. This training shall address the responsibilities of board members and corporate governance.

New members of the Board of Directors shall receive the Board Member Training described above within 30 days after becoming a member or within 90 days after the Effective Date, whichever is later.

4. *Certification.* Each individual who is required to attend training shall certify, in writing, or in electronic form, if applicable, that he or she has received the required training. The certification shall specify the type of training received and the date received. The Compliance Officer (or designee) shall retain the certifications, along with all course materials.

5. *Qualifications of Trainer.* Persons providing the training shall be knowledgeable about the subject area.

6. *Update of Training.* Universal American shall review the training annually, and, where appropriate, update the training to reflect changes in Federal health

care program requirements, any issues discovered during internal audits or IRO reviews, and any other relevant information.

7. *Computer-based Training.* Universal American may provide the training required under this CIA through appropriate computer-based training approaches. If Universal American chooses to provide computer-based training, it shall make available appropriately qualified and knowledgeable staff or trainers to answer questions or provide additional information to the individuals receiving such training.

D. Review Procedures

1. *General Description*

- a. *Engagement of Independent Review Organization.* Within 90 days after the Effective Date, Universal American shall engage an entity (or entities), such as an accounting, auditing, or consulting firm (hereinafter “Independent Review Organization” or “IRO”), to perform the reviews listed in this Section III.D. The applicable requirements relating to the IRO are outlined in Appendix A to this CIA, which is incorporated by reference.
- b. *Retention of Records.* The IRO and Universal American shall retain and make available to OIG, upon request, all work papers, supporting documentation, correspondence, and draft reports (those exchanged between the IRO and Universal American) related to the reviews.

2. *Marketing and Enrollment Systems Review.* In the First and Fourth Reporting Periods, the IRO shall perform a Marketing and Enrollment Systems Review and prepare a Marketing and Enrollment Systems Review Report, as outlined in Appendix B to this CIA, which is incorporated by reference.

3. *Marketing Expenditure Review.* For each Reporting Period, the IRO shall perform a Marketing Expenditure Review and prepare a Marketing Expenditure Review Report, as described in Appendix B to this CIA, which is incorporated by reference.

4. *Validation Review.* In the event OIG has reason to believe that: (a) Universal American's Marketing and Enrollment Systems Review or Marketing Expenditure Review fails to conform to the requirements of this CIA; or (b) the IRO's findings or Marketing and Enrollment Systems Review or Marketing Expenditure Review results are inaccurate, OIG may, at its sole discretion, conduct its own review to determine whether the Marketing and Enrollment Systems Review or Marketing Expenditure Review complied with the requirements of the CIA and/or the findings or Marketing and Enrollment Systems Review, Marketing and Enrollment Transaction Review, or Marketing Expenditure Review results are inaccurate (Validation Review). Universal American shall pay for the reasonable cost of any such review performed by OIG or any of its designated agents. Any Validation Review or Reports submitted as part of Universal American's final Annual Report shall be initiated no later than one year after Universal American's final submission (as described in Section II) is received by OIG.

Prior to initiating a Validation Review, OIG shall notify Universal American of its intent to do so and provide a written explanation of why OIG believes such a review is necessary. To resolve any concerns raised by OIG, Universal American may request a meeting with OIG to: (a) discuss the results of any Marketing and Enrollment Systems Review or Marketing Expenditure Review submissions or findings; (b) present any additional information to clarify the results of the Marketing and Enrollment Systems Review or Marketing Expenditure Review, or to correct the inaccuracy of the Marketing and Enrollment Systems Review or Marketing Expenditure Review; and/or (c) propose alternatives to the proposed Validation Review. Universal American agrees to provide any additional information as may be requested by OIG under this Section III.D.5 in an expedited manner. OIG will attempt in good faith to resolve any Marketing and Enrollment Systems Review or Marketing Expenditure Review issues with Universal American prior to conducting a Validation Review. However, the final determination as to whether or not to proceed with a Validation Review shall be made at the sole discretion of OIG.

5. *Independence and Objectivity Certification.* The IRO shall include in its report(s) to Universal American a certification or sworn affidavit that it has evaluated its professional independence and objectivity and has concluded that it is, in fact, independent and objective.

E. Disclosure Program

Universal American has established a Disclosure Program that includes a mechanism (e.g., a toll-free compliance telephone line) to enable individuals to disclose, to the Compliance Officer or some other person who is not in the disclosing individual's chain of command, any identified issues or questions associated with Universal American's policies, conduct, practices, or procedures with respect to a Federal health care program believed by the individual to be a potential violation of criminal, civil, or administrative law. Universal American shall appropriately publicize the existence of the disclosure mechanism (e.g., via periodic e-mails to employees or by posting the information in prominent common areas).

The Disclosure Program shall emphasize a policy of no retribution and no retaliation, and shall include a reporting mechanism for anonymous communications for which appropriate confidentiality shall be maintained. Upon receipt of a disclosure, the Compliance Officer (or designee) shall gather all relevant information from the disclosing individual. The Compliance Officer (or designee) shall make a preliminary, good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has obtained all of the information necessary to determine whether a further review should be conducted. For any disclosure that is sufficiently specific so that it reasonably: (1) permits a determination of the appropriateness of the alleged improper practice; and (2) provides an opportunity for taking corrective action, Universal American shall conduct an internal review of the allegations set forth in the disclosure and ensure that proper follow-up is conducted.

The Compliance Officer (or designee) shall maintain a disclosure log, which shall include a record and summary of each disclosure received (whether anonymous or not), the status of the respective internal reviews, and any corrective action taken in response to the internal reviews.

F. Ineligible Persons

1. *Definitions.* For purposes of this CIA:
 - a. an "Ineligible Person" shall include an individual or entity who:
 - i. is currently excluded, debarred, suspended, or otherwise ineligible to participate in the Federal health care

programs or in Federal procurement or nonprocurement programs; or

ii. has been convicted of a criminal offense that falls within the scope of 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.

b. “Exclusion Lists” include:

i. the HHS/OIG List of Excluded Individuals/Entities (available through the Internet at <http://www.oig.hhs.gov>); and

ii. the General Services Administration’s List of Parties Excluded from Federal Programs (available through the Internet at <http://www.epls.gov>).

2. *Screening Requirements.* Universal American shall ensure that all prospective and current Covered Persons are not Ineligible Persons, by implementing the following screening requirements.

a. Universal American shall screen all prospective Covered Persons against the Exclusion Lists prior to engaging their services and, as part of the hiring or contracting process, shall require such Covered Persons to disclose whether they are Ineligible Persons.

b. Universal American shall screen all Covered Persons against the Exclusion Lists within 90 days after the Effective Date and on an annual basis thereafter.

c. Universal American shall implement a policy requiring all Covered Persons to disclose immediately any debarment, exclusion, suspension, or other event that makes that person an Ineligible Person.

Nothing in Section III.F affects Universal American's responsibility to refrain from (and liability for) arranging for excluded persons to provide items or services that may be reimbursed by Federal health care programs. Universal American understands that items or services furnished by excluded persons are not payable by Federal health care programs and that Universal American may be liable for overpayments and/or criminal, civil, and administrative sanctions for employing or contracting with an excluded person regardless of whether Universal American meets the requirements of Section III.F.

3. *Removal Requirement.* If Universal American has actual notice that a Covered Person has become an Ineligible Person, Universal American shall remove such Covered Person from responsibility for, or involvement with, Universal American's business operations related to the Federal health care programs and shall remove such Covered Person from any position for which the Covered Person's compensation or the items or services furnished, ordered, or prescribed by the Covered Person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds at least until such time as the Covered Person is reinstated into participation in the Federal health care programs.

4. *Pending Charges and Proposed Exclusions.* If Universal American has actual notice that a Covered Person is charged with a criminal offense that falls within the scope of 42 U.S.C. §§ 1320a-7(a), 1320a-7(b)(1)-(3), or is proposed for exclusion during the Covered Person's employment or contract term, Universal American shall take all appropriate actions to ensure that the responsibilities of that Covered Person have not and shall not adversely affect the quality of care rendered to any beneficiary, patient, or resident, or any claims submitted to any Federal health care program.

G. Notification of Government Investigation or Legal Proceedings

Within 30 days after discovery, Universal American shall notify OIG, in writing, of any ongoing investigation or legal proceeding known to Universal American conducted or brought by a governmental entity or its agents involving an allegation that Universal American has committed a crime or has engaged in fraudulent activities. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. Universal American shall also provide written notice to OIG within 30 days after the resolution of the matter, and shall provide OIG with a description of the findings and/or results of the investigation or proceedings, if any.

H. Repayment of Overpayments

1. *Definition of Overpayments.* For purposes of this CIA, an “Overpayment” shall mean the amount of money Universal American has received in excess of the amount due and payable under any Federal health care program.

2. Repayment of Overpayments

- a. If, at any time, Universal American identifies or learns of any Overpayment, Universal American shall repay the Overpayment to the appropriate payor within 30 days after identification of the Overpayment and take remedial steps within 60 days after identification (or such additional time as may be agreed to by the payor) to correct the problem, including preventing the underlying problem and the Overpayment from recurring. If not yet quantified, within 30 days after identification, Universal American shall notify the payor of its efforts to quantify the Overpayment amount along with a schedule of when such work is expected to be completed. Notification and repayment to the payor shall be done in accordance with the payor’s policies.
- b. Notwithstanding the above, notification and repayment of any Overpayment amount that routinely is reconciled or adjusted pursuant to policies and procedures established by the payor should be handled in accordance with such policies and procedures.

I. Reportable Events

1. *Definition of Reportable Event.* For purposes of this CIA, a “Reportable Event” means anything that involves:

- a. a substantial Overpayment;
- b. a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws applicable

to any Federal health care program for which penalties or exclusion may be authorized; with the exception of the offenses listed in 42 C.F.R. § 422.510(a)(2),(12),(13); 42 C.F.R. § 423.509(a)(2),(11),(12).

- c. the employment of or contracting with a Covered Person who is an Ineligible Person as defined by Section III.F.1.a; or
- d. the filing of a bankruptcy petition by Universal American. A Reportable Event may be the result of an isolated event or a series of occurrences.

2. *Reporting of Reportable Events.* If Universal American determines (after a reasonable opportunity to conduct an appropriate review or investigation of the allegations) through any means that there is a Reportable Event, Universal American shall notify OIG, in writing, within 30 days after making the determination that the Reportable Event exists.

3. *Reportable Events under Section III.I.1.a.* For Reportable Events under Section III.I.1.a, the report to OIG shall be made at the same time as the repayment to the payor required in Section III.H, and shall include:

- a. a copy of the notification and repayment to the payor required in Section III.H.2;
- b. a description of the steps taken by Universal American to identify and quantify the Overpayment;
- c. a complete description of the Reportable Event, including the relevant facts, persons involved, and legal and Federal health care program authorities implicated;
- d. a description of Universal American's actions taken to correct the Reportable Event; and
- e. any further steps Universal American plans to take to address the Reportable Event and prevent it from recurring.

4. *Reportable Events under Section III.I.1.b and c.* For Reportable Events under Section III.I.1.b and III.I.1.c, the report to OIG shall include:

- a. a complete description of the Reportable Event, including the relevant facts, persons involved, and legal and Federal health care program authorities implicated;
- b. a description of Universal American's actions taken to correct the Reportable Event;
- c. any further steps Universal American plans to take to address the Reportable Event and prevent it from recurring; and
- d. if the Reportable Event has resulted in an Overpayment, a description of the steps taken by Universal American to identify and quantify the Overpayment.

5. *Reportable Events under Section III.I.1.d.* For Reportable Events under Section III.I.1.d, the report to the OIG shall include documentation of the bankruptcy filing and a description of any Federal health care program authorities implicated.

6. *Reportable Events Involving the Stark Law.* Notwithstanding the reporting requirements outlined above, any Reportable Event that involves only a probable violation of section 1877 of the Social Security Act, 42 U.S.C. §1395nn (the Stark Law) should be submitted by Universal American to the Centers for Medicare & Medicaid Services (CMS) through the self-referral disclosure protocol (SRDP), with a copy to the OIG. The requirements of Section III.H.2 that require repayment to the payor of any identified Overpayment within 30 days shall not apply to any Overpayment that may result from a probable violation of only the Stark Law that is disclosed to CMS pursuant to the SRDP.

IV. CHANGES TO BUSINESS UNITS OR LOCATIONS

A. Change or Closure of Unit or Location

In the event that, after the Effective Date, Universal American changes locations or closes a business unit or location related to its Medicare Advantage marketing and enrollment functions, Universal American shall notify OIG of this fact as soon as possible, but no later than within 30 days after the date of change or closure of the location.

B. Purchase or Establishment of New Unit or Location

In the event that, after the Effective Date, Universal American purchases or establishes a new business unit or location related to Medicare Advantage marketing and enrollment, Universal American shall notify OIG no later than five days after the date that the purchase or establishment is publicly disclosed by Universal American. This notification shall include the address of the new business unit or location, phone number, fax number, the location's Medicare and state Medicaid program provider number and/or supplier number(s), if applicable; and, if applicable, the name and address of each Medicare and state Medicaid program contractor to which Universal American currently submits claims. Each new business unit or location involved in Universal American's Medicare Advantage business and all Covered Persons at each new business unit or location shall be subject to the applicable requirements of this CIA.

C. Sale of Unit or Location

In the event that, after the Effective Date, Universal American proposes to sell any or all of its business units or locations that are Medicare Advantage related or regulated, Universal American shall notify OIG of the proposed sale no later than 5 days after the date the sale is publicly disclosed by Universal American. This notification shall include a description of the business unit or location sold, a brief description of the terms of the sale, and the name and contact information of the purchaser. In the event that Universal American sells all or any significant portion of its Medicare Advantage business or assets to a third party ("Purchaser"), this CIA shall be binding on the Purchaser of such business or assets solely with respect to the Universal American business or assets so purchased, unless otherwise determined and agreed to in writing by the OIG and Universal American and/or such Purchaser. For the avoidance of doubt, except as expressly provided in the immediately preceding sentence, in no event shall this CIA apply to, or be binding on, any Purchaser (including its employees, directors, agents, brokers, owners, partners, subsidiaries, affiliates and successors and assigns of any of them) with respect to their business, assets, properties, rights, locations or contracts. Upon request, OIG agrees to

work in good faith with Universal American and/or such Purchaser to clarify the application of this Section IV.C.

V. IMPLEMENTATION AND ANNUAL REPORTS

A. Implementation Report

Within 120 days after the Effective Date, Universal American shall submit a written report to OIG summarizing the status of its implementation of the requirements of this CIA (Implementation Report). The Implementation Report shall, at a minimum, include:

1. the name, address, phone number, and position description of the Compliance Officer required by Section III.A, and a summary of other noncompliance job responsibilities the Compliance Officer may have;
2. the names and positions of the members of the Compliance Committee required by Section III.A;
3. a copy of Universal American's Code of Conduct required by Section III.B.1;
4. the number of individuals required to complete the Code of Conduct certification required by Section III.B.1, the percentage of individuals who have completed such certification, and an explanation of any exceptions (the documentation supporting this information shall be available to OIG upon request);
5. a summary of all Policies and Procedures required by Section III.B.2 (copies of the Policies and Procedures shall be made available to OIG upon request);
6. the following information regarding each type of training required by Section III.C:
 - a. a description of such training, including a summary of the topics covered, the length of sessions, and a schedule of training sessions; and

- b. the number of individuals required to be trained, percentage of individuals actually trained, and an explanation of any exceptions.

A copy of all training materials and the documentation supporting this information shall be made available to OIG upon request.

7. a description of the Disclosure Program required by Section III.E;
8. the following information regarding the IRO(s): (a) identity, address, and phone number; (b) a copy of the engagement letter; (c) information to demonstrate that the IRO has the qualifications outlined in Appendix A to this CIA; (d) a summary and description of any and all current and prior engagements and agreements between Universal American and the IRO; and (e) a certification from the IRO regarding its professional independence and objectivity with respect to Universal American;
9. a description of the process by which Universal American fulfills the requirements of Section III.F regarding Ineligible Persons;
10. a list of all of Universal American's locations (including locations and mailing addresses); the corresponding name under which each location is doing business; the corresponding phone numbers and fax numbers; each location's Medicare and state Medicaid program provider number and/or supplier number(s), if applicable; and, if applicable, the name and address of each Medicare and state Medicaid program contractor to which Universal American currently submits claims;
11. a description of Universal American's corporate structure, including identification of any parent and sister companies, subsidiaries, and their respective lines of business; and
12. the certifications required by Section V.C.

B. Annual Reports

Universal American shall submit to OIG annually a report with respect to the status of, and findings regarding, Universal American's compliance activities for each of

the five Reporting Periods (Annual Report). Each Annual Report shall include, at a minimum:

1. any change in the identity, position description, or other noncompliance job responsibilities of the Compliance Officer and any change in the membership of the Compliance Committee described in Section III.A;
2. the Board Committee resolution required by Section III.A.3;
3. a summary of any changes or amendments to Universal American's Code of Conduct required by Section III.B.1 and the reason for such changes, along with a copy of the revised Code of Conduct;
4. the number of individuals required to complete the Code of Conduct certification required by Section III.B.1, the percentage of individuals who have completed such certification, and an explanation of any exceptions (the documentation supporting this information shall be made available to OIG upon request);
5. a summary of any significant changes or amendments to the Policies and Procedures required by Section III.B and the reasons for such changes (e.g., change in contractor policy);
6. the following information regarding each type of training required by Section III.C:
 - a. a description of the initial and annual training, including a summary of the topics covered, the length of sessions, and a schedule of training sessions; and
 - b. the number of individuals required to complete the initial and annual training, the percentage of individuals who actually completed the initial and annual training, and an explanation of any exceptions.

A copy of all training materials and the documentation to support this information shall be made available to OIG upon request.

7. a complete copy of all reports prepared pursuant to Section III.D, along with a copy of the IRO's engagement letter;

8. Universal American's response to the reports prepared pursuant to Section III.D, along with corrective action plan(s) related to any issues raised by the reports;
9. a summary and description of any and all current and prior engagements and agreements between Universal American and the IRO (if different from what was submitted as part of the Implementation Report);
10. a certification from the IRO regarding its professional independence and objectivity with respect to Universal American;
11. a summary of Reportable Events (as defined in Section III.I) identified during the Reporting Period and the status of any corrective action relating to all such Reportable Events;
12. a report of the aggregate Overpayments that have been returned to the Federal health care programs. Overpayment amounts that are routinely reconciled or adjusted pursuant to policies and procedures established by the payor do not need to be included in this aggregate Overpayment report;
13. a summary of the disclosures in the disclosure log required by Section III.E that relate to Federal health care programs (the complete disclosure log shall be made available to OIG upon request);
14. any changes to the process by which Universal American fulfills the requirements of Section III.F regarding Ineligible Persons;
15. a summary describing any ongoing investigation or legal proceeding required to have been reported pursuant to Section III.G. The summary shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding;
16. a description of all changes to the most recently provided list of Universal American's locations (including addresses) as required by Section V.A.10; the corresponding name under which each location is doing business; the corresponding phone numbers and fax numbers; each location's Medicare and state Medicaid program provider number(s) and/or supplier number(s); and the name and address of each

Medicare and state Medicaid program contractor to which Universal American currently submits claims; and

17. the certifications required by Section V.C.

The first Annual Report shall be received by OIG no later than 60 days after the end of the first Reporting Period. Subsequent Annual Reports shall be received by OIG no later than the anniversary date of the due date of the first Annual Report.

C. Certifications

The Implementation Report and each Annual Report shall include a certification by the Compliance Officer that:

1. to the best of his or her knowledge, except as otherwise described in the report, Universal American is in compliance with all of the requirements of this CIA;
2. he or she has reviewed the report and has made reasonable inquiry regarding its content and believes that the information in the report is accurate and truthful; and
3. to the best of his or her knowledge, Universal American has complied with its obligations under the Settlement Agreement not to resubmit to any Federal health care program payors any previously denied claims related to the Covered Conduct addressed in the Settlement Agreement, and not to appeal any such denials of claims.

D. Designation of Information

Universal American shall clearly identify any portions of its submissions that it believes are trade secrets, or information that is commercial or financial and privileged or confidential, and therefore potentially exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Universal American shall refrain from identifying any information as exempt from disclosure if that information does not meet the criteria for exemption from disclosure under FOIA.

VI. NOTIFICATIONS AND SUBMISSION OF REPORTS

Unless otherwise stated in writing after the Effective Date, all notifications and reports required under this CIA shall be submitted to the following entities:

OIG:

Administrative and Civil Remedies Branch
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
Cohen Building, Room 5527
330 Independence Avenue, S.W.
Washington, DC 20201
Telephone: 202.619.2078
Facsimile: 202.205.0604

UNIVERSAL AMERICAN CORP.:

Robert M. Hayes
Corporate Compliance Officer
Universal American Corp.
Six International Drive, Suite 190
Rye Brook, New York 10573
Telephone: 914.934.5200, ext.257

Unless otherwise specified, all notifications and reports required by this CIA may be made by certified mail, PDF-email, overnight mail, hand delivery, or other means, provided that there is proof that such notification was received. For purposes of this requirement, internal facsimile confirmation sheets do not constitute proof of receipt. Upon request by OIG, Universal American may be required to provide OIG with an electronic copy of each notification or report required by this CIA in searchable portable document format (pdf), in addition to a paper copy.

VII. OIG INSPECTION, AUDIT, AND REVIEW RIGHTS

In addition to any other rights OIG may have by statute, regulation, or contract, OIG or its duly authorized representative(s) may examine or request copies of Universal American's books, records, and other documents and supporting materials and/or conduct on-site reviews of any of Universal American's locations for the purpose of verifying and

evaluating: (a) Universal American's compliance with the terms of this CIA; and (b) Universal American's compliance with the requirements of the Federal health care programs in which it participates. The documentation described above shall be made available by Universal American to OIG or its duly authorized representative(s) at all reasonable times for inspection, audit, or reproduction. Furthermore, for purposes of this provision, OIG or its duly authorized representative(s) may interview any of Universal American's employees, contractors, or agents who consent to be interviewed at the individual's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the individual and OIG. Universal American shall assist OIG or its duly authorized representative(s) in contacting and arranging interviews with such individuals upon OIG's request. Universal American's employees may elect to be interviewed with or without a representative of Universal American present.

VIII. DOCUMENT AND RECORD RETENTION

Universal American shall maintain for inspection all documents and records relating to reimbursement from the Federal health care programs and to compliance with this CIA for six years (or longer if otherwise required by law) from the Effective Date.

IX. DISCLOSURES

Consistent with HHS's FOIA procedures, set forth in 45 C.F.R. Part 5, OIG shall make a reasonable effort to notify Universal American prior to any release by OIG of information submitted by Universal American pursuant to its obligations under this CIA and identified upon submission by Universal American as trade secrets, or information that is commercial or financial and privileged or confidential, under the FOIA rules. With respect to such releases, Universal American shall have the rights set forth at 45 C.F.R. § 5.65(d).

X. BREACH AND DEFAULT PROVISIONS

Universal American is expected to fully and timely comply with all of its CIA obligations.

A. Stipulated Penalties for Failure to Comply with Certain Obligations

As a contractual remedy, Universal American and OIG hereby agree that failure to

comply with certain obligations as set forth in this CIA may lead to the imposition of the following monetary penalties (hereinafter referred to as “Stipulated Penalties”) in accordance with the following provisions.

1. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Universal American fails to establish and implement any of the following obligations as described in Section III:

- a. a Compliance Officer;
- b. a Compliance Committee;
- c. the Board Committee’s compliance obligations;
- d. a written Code of Conduct;
- e. written Policies and Procedures;
- f. the training of Covered Persons, Relevant Covered Persons, and Board Members;
- g. a Disclosure Program;
- h. Ineligible Persons screening and removal requirements;
- i. notification of Government investigations or legal proceedings; and
- j. reporting of Reportable Events.

2. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Universal American fails to engage and use an IRO, as required in Section III.D, Appendix A, and Appendix B.

3. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Universal American fails to submit the Implementation Report or any Annual Reports to OIG in accordance with the requirements of Section V by the deadlines for submission.

4. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Universal American fails to submit any Marketing and Enrollment Systems Review Report, Marketing and Enrollment Transaction Review Report, or Marketing Expenditure Review Report in accordance with the requirements of Section III.D and Appendix B.

5. A Stipulated Penalty of \$1,500 for each day Universal American fails to grant access as required in Section VII. (This Stipulated Penalty shall begin to accrue on the date Universal American fails to grant access.)

6. A Stipulated Penalty of \$5,000 for each false certification submitted by or on behalf of Universal American as part of its Implementation Report, Annual Report, additional documentation to a report (as requested by the OIG), or otherwise required by this CIA.

7. A Stipulated Penalty of \$1,000 for each day Universal American fails to comply fully and adequately with any obligation of this CIA. OIG shall provide notice to Universal American stating the specific grounds for its determination that Universal American has failed to comply fully and adequately with the CIA obligation(s) at issue and steps Universal American shall take to comply with the CIA. (This Stipulated Penalty shall begin to accrue 10 days after Universal American receives this notice from OIG of the failure to comply.) A Stipulated Penalty as described in this Subsection shall not be demanded for any violation for which OIG has sought a Stipulated Penalty under Subsections 1- 6 of this Section.

B. Timely Written Requests for Extensions

Universal American may, in advance of the due date, submit a timely written request for an extension of time to perform any act or file any notification or report required by this CIA. Notwithstanding any other provision in this Section, if OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after Universal American fails to meet the revised deadline set by OIG. Notwithstanding any other provision in this Section, if OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until three business days after Universal American receives OIG's written denial of such request or the original due date, whichever is later.

A “timely written request” is defined as a request in writing received by OIG at least five business days prior to the date by which any act is due to be performed or any notification or report is due to be filed.

C. Payment of Stipulated Penalties

1. *Demand Letter.* Upon a finding that Universal American has failed to comply with any of the obligations described in Section X.A and after determining that Stipulated Penalties are appropriate, OIG shall notify Universal American of: (a) Universal American’s failure to comply; and (b) OIG’s exercise of its contractual right to demand payment of the Stipulated Penalties. (This notification shall be referred to as the “Demand Letter.”)

2. *Response to Demand Letter.* Within 10 days after the receipt of the Demand Letter, Universal American shall either: (a) cure the breach to OIG’s satisfaction and pay the applicable Stipulated Penalties or (b) request a hearing before an HHS administrative law judge (ALJ) to dispute OIG’s determination of noncompliance, pursuant to the agreed upon provisions set forth below in Section X.E. In the event Universal American elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until Universal American cures, to OIG’s satisfaction, the alleged breach in dispute. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this CIA and shall be grounds for exclusion under Section X.D.

3. *Form of Payment.* Payment of the Stipulated Penalties shall be made by electronic funds transfer to an account specified by OIG in the Demand Letter.

4. *Independence from Material Breach Determination.* Except as set forth in Section X.D.1.c, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for OIG’s decision that Universal American has materially breached this CIA, which decision shall be made at OIG’s discretion and shall be governed by the provisions in Section X.D, below.

D. Exclusion for Material Breach of this CIA

1. *Definition of Material Breach.* A material breach of this CIA means:

- a. a repeated or flagrant violation of the obligations under this CIA, including, but not limited to, the obligations addressed in Section X.A;
- b. a repeated failure by Universal American to report a Reportable Event, take corrective action, and make the appropriate refunds, as required in Section III.I;
- c. a failure to respond to a Demand Letter concerning the payment of Stipulated Penalties in accordance with Section X.C; or
- d. a failure to engage and use an IRO in accordance with Section III.D, Appendix A, and Appendix B.

2. *Notice of Material Breach and Intent to Exclude.* The parties agree that a material breach of this CIA by Universal American constitutes an independent basis for Universal American's exclusion from participation in the Federal health care programs. Upon a determination by OIG that Universal American has materially breached this CIA and that exclusion is the appropriate remedy, OIG shall notify Universal American of: (a) Universal American's material breach; and (b) OIG's intent to exercise its contractual right to impose exclusion. (This notification shall be referred to as the "Notice of Material Breach and Intent to Exclude.")

3. *Opportunity to Cure.* Universal American shall have 30 days from the date of receipt of the Notice of Material Breach and Intent to Exclude to demonstrate to OIG's satisfaction that:

- a. Universal American is in compliance with the obligations of the CIA cited by OIG as being the basis for the material breach;
- b. the alleged material breach has been cured; or
- c. the alleged material breach cannot be cured within the 30 day period, but that: (i) Universal American has begun to take action to cure the material breach; (ii) Universal American is pursuing such action with due diligence; and (iii) Universal

American has provided to OIG a reasonable timetable for curing the material breach.

4. *Exclusion Letter.* If, at the conclusion of the 30 day period, Universal American fails to satisfy the requirements of Section X.D.3, OIG may exclude Universal American from participation in the Federal health care programs. OIG shall notify Universal American in writing of its determination to exclude Universal American. (This letter shall be referred to as the “Exclusion Letter.”) Subject to the Dispute Resolution provisions in Section X.E, below, the exclusion shall go into effect 30 days after the date of Universal American’s receipt of the Exclusion Letter. The exclusion shall have national effect and shall also apply to all other Federal procurement and nonprocurement programs. Reinstatement to program participation is not automatic. After the end of the period of exclusion, Universal American may apply for reinstatement by submitting a written request for reinstatement in accordance with the provisions at 42 C.F.R. §§ 1001.3001-.3004.

E. Dispute Resolution

1. *Review Rights.* Upon OIG’s delivery to Universal American of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under this CIA, Universal American shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. Part 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this CIA. Specifically, OIG’s determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an HHS ALJ and, in the event of an appeal, the HHS Departmental Appeals Board (DAB), in a manner consistent with the provisions in 42 C.F.R. § 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving Stipulated Penalties shall be made within 10 days after receipt of the Demand Letter and the request for a hearing involving exclusion shall be made within 25 days after receipt of the Exclusion Letter.

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for Stipulated Penalties under this CIA shall be: (a) whether Universal American was in full and timely compliance with the obligations of this CIA for which OIG demands payment; and (b) the period of noncompliance. Universal American shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. OIG shall not have the right to appeal to the

DAB an adverse ALJ decision related to Stipulated Penalties. If the ALJ agrees with OIG with regard to a finding of a breach of this CIA and orders Universal American to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable 20 days after the ALJ issues such a decision unless Universal American requests review of the ALJ decision by the DAB. If the ALJ decision is properly appealed to the DAB and the DAB upholds the determination of OIG, the Stipulated Penalties shall become due and payable 20 days after the DAB issues its decision.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CIA shall be:

- a. whether Universal American was in material breach of this CIA;
- b. whether such breach was continuing on the date of the Exclusion Letter; and
- c. whether the alleged material breach could not have been cured within the 30-day period, but that: (i) Universal American had begun to take action to cure the material breach within that period; (ii) Universal American has pursued and is pursuing such action with due diligence; and (iii) Universal American provided to OIG within that period a reasonable timetable for curing the material breach and Universal American has followed the timetable.

For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision favorable to OIG, or, if the ALJ rules for Universal American, only after a DAB decision in favor of OIG. Universal American's election of its contractual right to appeal to the DAB shall not abrogate OIG's authority to exclude Universal American upon the issuance of an ALJ's decision in favor of OIG. If the ALJ sustains the determination of OIG and determines that exclusion is authorized, such exclusion shall take effect 20 days after the ALJ issues such a decision, notwithstanding that Universal American may request review of the ALJ decision by the DAB. If the DAB finds in favor of OIG after an ALJ decision adverse to OIG, the exclusion shall take effect 20 days after the DAB decision. Universal American shall waive its right to any notice of such exclusion if a decision upholding the exclusion is rendered by the ALJ or DAB. If the DAB finds in

favor of Universal American, Universal American shall be reinstated effective on the date of the original exclusion.

4. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this CIA agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered final for all purposes under this CIA.

XI. EFFECTIVE AND BINDING AGREEMENT

Universal American and OIG agree as follows:

A. This CIA shall be binding on the successors, assigns, and transferees of Universal American to the extent provided in Section IV.C.

B. This CIA shall become final and binding on the date the final signature is obtained on the CIA.

C. This CIA constitutes the complete agreement between the parties and may not be amended except by written consent of the parties to this CIA.

D. OIG may agree to a suspension of Universal American's obligations under this CIA based on a certification by Universal American that it is no longer providing health care items or services that will be billed to any Federal health care program and that it does not have any ownership or control interest, as defined in 42 U.S.C. §1320a-3, in any entity that bills any Federal health care program. If Universal American is relieved of its CIA obligations, Universal American will be required to notify OIG in writing at least 30 days in advance if Universal American plans to resume providing health care items or services that are billed to any Federal health care program or to obtain an ownership or control interest in any entity that bills any Federal health care program. At such time, OIG shall evaluate whether the CIA will be reactivated or modified.

E. The undersigned Universal American signatories represent and warrant that they are authorized to execute this CIA. The undersigned OIG signatory represents that he is signing this CIA in his official capacity and that he is authorized to execute this CIA.

F. This CIA may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same CIA. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this CIA.

ON BEHALF OF UNIVERSAL AMERICAN CORP.

/Robert M. Hayes/

8/23/2011

Robert M. Hayes
Senior Vice President, Health Quality
Universal American Corp.

DATE

/D. McCarty Thornton/

8/22/2011

D. McCarty Thornton
Counsel for Universal American Corp.

DATE

DATE

**ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

/Gregory E. Demske/

GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Inspector General
U. S. Department of Health and Human Services

9/1/2011

DATE

/Henry E. Green/

HENRY E. GREEN
Senior Counsel
Office of Inspector General
U. S. Department of Health and Human Services

9/1/2011

DATE

APPENDIX A

INDEPENDENT REVIEW ORGANIZATION

A. IRO Engagement

1. Universal American shall engage an IRO that possesses the qualifications set forth in Paragraph B, below, to perform the responsibilities in Paragraph C, below. The IRO shall conduct the review in a professionally independent and objective fashion, as set forth in Paragraph D. Within 30 days after OIG receives the information identified in Section V.A.8 of the CIA or any additional information submitted by Universal American in response to a request by OIG, whichever is later, OIG will notify Universal American if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, Universal American may continue to engage the IRO.

2. If Universal American engages a new IRO during the term of the CIA, this IRO shall also meet the requirements of this Appendix. If a new IRO is engaged, Universal American shall submit the information identified in Section V.A.8 of the CIA to OIG within 30 days of engagement of the IRO. Within 30 days after OIG receives this information or any additional information submitted by Universal American at the request of OIG, whichever is later, OIG will notify Universal American if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, Universal American may continue to engage the IRO.

B. IRO Qualifications

The IRO shall:

1. assign individuals to conduct the Marketing and Enrollment Systems Review and Marketing Expenditure Review who: (1) have expertise in the marketing, contracting, enrollment, and other requirements of health maintenance organizations contracting with Federal health care programs and in the general requirements of the Federal health care program(s) with which Universal American does business; and (2) have sufficient staff and resource to conduct the reviews required by the CIA on a timely basis.

C. IRO Responsibilities

The IRO shall:

1. perform each Marketing and Enrollment Systems Review and Marketing Expenditure Review in accordance with the specific requirements of the CIA;
2. follow all applicable Medicare Advantage enrollment rules and all applicable Medicare, and other applicable Federal health care program rules reimbursement guidelines in making assessments in the Marketing and Enrollment Systems Review and Marketing Expenditure Review;
3. if in doubt of the application of a particular Medicare Advantage enrollment rule, Medicare, or other Federal health care program rule, or reimbursement guideline, request clarification from the appropriate authority;
4. respond to all OIG inquires in a prompt, objective, and factual manner; and
5. prepare timely, clear, well-written reports that include all the information required by Appendix B to the CIA.

D. IRO Independence and Objectivity

The IRO must perform the Marketing and Enrollment Systems Review and Marketing Expenditure Review in a professionally independent and objective fashion, as appropriate to the nature of the engagement, taking into account any other business relationships or engagements that may exist between the IRO and Universal American.

E. IRO Removal/Termination

1. *Provider and IRO.* If Universal American terminates its IRO or if the IRO withdraws from the engagement during the term of the CIA, Universal American must submit a notice explaining its reasons for termination or the reason for withdrawal to OIG no later than 30 days after termination or withdrawal. Universal American must engage a new IRO in accordance with Paragraph A of this Appendix and within 60 days of termination or withdrawal of the prior IRO or at least 60 days prior to the end of the current Reporting Period, whichever is earlier.
2. *OIG Removal of IRO.* In the event OIG has reason to believe the

IRO does not possess the qualifications described in Paragraph B, is not independent and objective as set forth in Paragraph D, or has failed to carry out its responsibilities as described in Paragraph C, OIG may, at its sole discretion, require Universal American to engage a new IRO in accordance with Paragraph A of this Appendix. Universal American must engage a new IRO within 60 days of termination of the prior IRO or at least 60 days prior to the end of the current Reporting Period, whichever is earlier.

Prior to requiring Universal American to engage a new IRO, OIG shall notify Universal American of its intent to do so and provide a written explanation of why OIG believes such a step is necessary. To resolve any concerns raised by OIG, Universal American may present additional information regarding the IRO's qualifications, independence or performance of its responsibilities. OIG will attempt in good faith to resolve any differences regarding the IRO with Universal American prior to requiring Universal American to terminate the IRO. However, the final determination as to whether or not to require Universal American to engage a new IRO shall be made at the sole discretion of OIG.

APPENDIX B

MARKETING AND ENROLLMENT SYSTEMS REVIEW AND MARKETING EXPENDITURE REVIEW

1. *Marketing and Enrollment Review; General Description*

Universal American shall retain an Independent Review Organization (IRO) to perform reviews to assess Universal American's compliance with the Federal health care program and contractual requirements applicable to Medicare Advantage plans including, but not limited to, the requirements found at 42 C.F.R., part 422, and CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives (Marketing and Enrollment Review). The Marketing and Enrollment Review shall consist of two components – a systems review (Marketing and Enrollment Systems Review) and a marketing expenditure review (Marketing Expenditure Review), as described below.

If there are no material changes in Universal American's Medicare Advantage plan marketing and enrollment systems, processes, policies and procedures, the IRO shall perform the Marketing and Enrollment Systems Review in the first and fourth Reporting Periods. If Universal American materially changes its Medicare Advantage plan marketing and enrollment systems, processes, policies, and procedures, the IRO shall perform a Marketing and Enrollment Systems Review for the Reporting Period(s) in which such changes were made in addition to conducting the Review for the first and fourth Reporting Periods. The additional Marketing and Enrollment Systems Review(s) shall consist of: (1) an identification of the material changes and (2) a review of the Medicare Advantage plan marketing and enrollment systems, processes, policies, and procedures that materially changed. The Marketing Expenditure Review shall be performed for each Reporting Period of the CIA.

2. *Marketing and Enrollment Systems Review.*

A. The Marketing and Enrollment Systems Review shall consist of a review of:

(1) Universal American's systems, processes, policies, and procedures implemented to ensure compliance with the Federal health care program and contractual requirements applicable to Medicare Advantage plans, including, but not limited to, the

requirements found at 42 C.F.R., part 422, and CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives;

(2) Universal American's marketing and enrollment activities to determine whether such activities fulfill the applicable Federal health care program and contractual requirements, including but not limited to the requirements found at 42 C.F.R., part 422, and CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives. This review of activities shall include, but not necessarily be limited to a review of: marketing and educational materials, enrollment application forms and questionnaires; all correspondence (including but not limited to complaints and surveys) made to Universal American by enrollees or prospective enrollees, where such correspondence relates to the enrollment process or marketing; attending enrollment fairs and sites as "secret shopper," and interviewing and surveying Universal American enrollees regarding the enrollment process; and

(3) Universal American's training programs for sales representatives, for the purpose of determining whether Universal American is providing adequate training to its sales representatives regarding the systems, processes, policies, and procedures referred to in paragraph A., above. This review shall include, but not necessarily be limited to the IRO attending training sessions for sales representatives on an unannounced basis, and interviews of members of senior management, marketing department managers, and sales representatives employed by Universal American.

B. Within 120 days after the Effective Date, the IRO shall develop a proposed workplan for the Marketing and Enrollment Systems Review for the first Reporting Period and shall deliver the proposed work plan to the OIG for review. Within 30 days of the beginning of each of the remaining Reporting Periods, the IRO shall deliver to OIG a proposed work plan for that Reporting Period. Within 30 days after OIG receives the proposed work plan, OIG will notify Universal American if the work plan is unacceptable. Absent notification from OIG that the work plan is unacceptable, the IRO may conduct the Marketing and Enrollment Systems Review for the applicable Reporting Period using the work plan.

C. The IRO shall prepare a report for each Marketing and Enrollment Systems Review performed. The Marketing and Enrollment Systems Review Report shall include the following information:

(1) a description of the documentation reviewed (including Medicare Advantage Plan contracts, CMS regulations and guidance documents, etc.) and personnel interviewed;

(2) a detailed description of Universal American's systems, policies, processes and procedures relating to compliance with the Federal health care program and contractual requirements applicable to Medicare Advantage plans, including, but not limited to, the requirements found at 42 C.F.R., part 422, and CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives;

(3) a detailed description of the Medicare Advantage Plan enrollment and marketing activities engaged in by Universal American and reviewed by the IRO;

(4) a detailed description of the sales representative training programs reviewed by the IRO;

(5) findings and supporting rationale regarding weaknesses in Universal American's systems, processes, and procedures relating to its compliance with the Federal health care program and contractual requirements applicable to Medicare Advantage plans, including, but not limited to, the requirements found at 42 C.F.R., part 422, and CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives; and

(6) recommendations to improve Universal American's systems, processes, and procedures relating to its compliance with the Federal health care program and contractual requirements applicable to Medicare Advantage plans, including, but not limited to, the requirements found at 42 C.F.R., part 422, and CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives.

3. *Marketing Expenditure Review.*

A. The Marketing Expenditure Review shall consist of a review by the IRO of [50] randomly selected expenditures from the Marketing and Enrollment Expenditures Tracking System that were made by Universal American during the Reporting Period. The IRO shall assess whether each expenditure is in compliance with the requirements in 42 C.F.R. § 422.2260, CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives and Universal American's policies and procedures regarding appropriate ways to conduct Medicare Advantage plan marketing, advertising, and enrollment activities in compliance with all applicable Federal health care program

requirements, including, but not limited to, the Federal Anti-Kickback Statute (codified at 42 U.S.C. § 1320a-7b), the beneficiary inducement prohibition (codified at 42 U.S.C. § 1320a-7a(a)(5)), and the False Claims Act (codified at 31 U.S.C. § 3729-3733).

B. *Marketing Expenditure Review Report.* The IRO shall prepare a report based on each Marketing Expenditure Review performed. The Marketing Expenditure Review Report shall include the following information:

1. A description of the Marketing and Enrollment Expenditures Tracking System;
2. A description of the procedures used to select the random sample of expenditures reviewed by the IRO;
3. A description of the procedures used by the IRO to review each expenditure;
4. The IRO's findings with respect to whether each of the expenditures reviewed is in compliance with the requirements in 42 C.F.R. § 422.2260, CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives and Universal American's policies and procedures regarding appropriate ways to conduct Medicare Advantage plan marketing, advertising, and enrollment activities in compliance with all applicable Federal health care program requirements, including, but not limited to, the Federal Anti-Kickback Statute (codified at 42 U.S.C. § 1320a-7b), the beneficiary inducement prohibition (codified at 42 U.S.C. § 1320a-7a(a)(5)), and the False Claims Act (codified at 31 U.S.C. § 3729-3733);
5. The IRO's observations, findings and recommendations on possible improvements to Universal American's policies, procedures and systems in place to ensure that all marketing expenditures are in compliance with the requirements in 42 C.F.R. § 422.2260, CMS' Medicare Managed Care Marketing and Enrollment guidelines and directives and Universal American's policies and procedures regarding appropriate ways to conduct Medicare Advantage plan marketing, advertising, and enrollment activities in compliance with all applicable Federal health care program requirements, including, but not limited to, the Federal Anti-Kickback Statute (codified at 42 U.S.C. § 1320a-7b), the beneficiary inducement prohibition (codified at 42 U.S.C. § 1320a-7a(a)(5)), and the False Claims Act (codified at 31 U.S.C. § 3729-3733).