

ALLIANCE AGREEMENT

THIS ALLIANCE AGREEMENT (the “**Agreement**”) is made and entered into as of the latter date provided with the signatures below, and is effective July 1, 2018 (“**Effective Date**”) by and between the parties identified on Schedule A hereto, as amended, (each an “**Alliance Member**” and collectively the “**Alliance Members**”).

WITNESSETH:

WHEREAS, the Alliance Members currently participate in the Community Care of North Carolina Program, as that term is defined in the State Plan of North Carolina (the “**State Plan**”), under which the network members provide care management services to vulnerable populations in North Carolina, most particularly the Medicaid and Health Choice populations, with operational and administrative support from North Carolina Community Care Networks, Inc. (“N3CN”) and Community Care of North Carolina, Inc. (“CCNC”); and

WHEREAS, the Alliance Members want to form a strategic business alliance in order to collaborate and coordinate activities in pursuit of new business opportunities with any insurance provider or payer, hospital system, or any other healthcare entity wanting the services of the Alliance; and

WHEREAS, the Alliance Members believe that in collaborating in this way the Alliance will be able to deliver significant efficiencies for Alliance Members, Customers, and practitioners, which efficiencies the Alliance Members could not realize operating independently; and

WHEREAS, the Alliance Members further wish to collaborate with the Clinically Integrated Network (“CIN”), Community Care Physicians Network, LLC, which CIN is owned in part by certain Alliance Members and which CIN the Alliance Members believe will be a significant vehicle for Customer contracting regardless of its ownership;

WHEREAS, this Agreement and its objectives and outcomes are entirely separate from the State Plan.

NOW, THEREFORE, in consideration of the promises and agreements contained herein, the Alliance Members agree as follows:

ARTICLE I: PURPOSE

The Alliance’s purpose (the “Purpose”) shall be to develop, maintain, and enhance a consistent, high-quality, statewide service line and a unified marketing and Customer relations strategy in order to procure and perform Customer contracts for Alliance Members and to provide support for independent providers and practitioners throughout the State.

ARTICLE II: RULES OF CONSTRUCTION AND DEFINITIONS

A. Rules of Construction.

1. Captions and headings are for convenience only and are not meant to limit or interpret the words following them.
2. The words *include* and *including*, and all variations thereon, will be deemed to be followed by the words “without limitation” and not deemed terms of limitation.
3. The word *and* includes the meaning of an alternative as well as the meaning of an addition. The word *or* includes the meaning of addition as well as the meaning of an alternative.
4. The word *any* includes the meaning of a singular item and the meaning of all items.

5. The Alliance Members expressly waive any common law or statutory rule of construction which favors a non-drafting Alliance Member, and the Alliance Members expressly agree that this Agreement, and any agreement incorporating its terms, must be construed without regard to which Alliance Member wrote that term, condition, or provision.
6. Terms and conditions in this Agreement and in any agreement incorporating its terms will be construed not to conflict where possible.

B. Party Definitions.

1. *Alliance* means the group relationship among the Alliance Members. As the Alliance's composition may evolve over time with the admission of new members and the departure of existing members, at any given time the Alliance may consist of any number of Program Networks, CCNC and N3CN.
2. *Program Network* means any of the regional network entities defined in the State Plan, historically created to manage the Primary Care Case Management Program for Medicaid and Health Choice patients in North Carolina.
3. *Alliance Network* means any Program Network that has decided to be an Alliance Member. For purpose of clarification, Alliance Network includes N3CN in its role as successor-in-interest to former Program Network AccessCare.
4. *Affiliate* means any entity owned by an Alliance Member, any entity that owns an Alliance Member, and any entity that shares a common parent company with an Alliance Member.
5. *Customer* means any healthcare-related entity that wants to or does in fact enter into a contract with CCNC or its Affiliate for the services of CCNC and one or more Alliance Networks.

C. Other Definitions.

1. *Alliance Work* means any contractual obligations undertaken by an Alliance Member that are negotiated and entered into as a part of the Alliance Member's membership in the Alliance. For purposes of clarity, Alliance Work further specifically includes work that will be undertaken for or on behalf of a health care payor.
2. *Already-Existing Contract* means any enforceable contract between an Alliance Member and a third party that is in existence at the time such Alliance Member executes this Agreement, and any renewal thereof so long as the renewal does not materially alter the terms of the Already Existing Contract as it exists at the time the Alliance Member that is a party thereto executes this Agreement.
3. *Confidential Information* means any and all information of strategic or commercial value relating to an Alliance Member or any Affiliate's business or operations that an Alliance Member discloses to the other Alliance Members and that is either (a) designated in writing as confidential or proprietary or (b) should reasonably be regarded as confidential or proprietary given the nature and circumstances of its disclosure. Confidential Information also includes any information from a Customer disclosed as part of the negotiation process for any Alliance work.
4. *Intellectual Property ("IP")* means:
 - a. patents and patent applications;
 - b. internet domain names, trademarks, service marks, trade dress, trade names,

- logos and corporate names and registrations and applications for registration thereof together with all of the goodwill associated therewith;
- c. copyrights (registered or unregistered) and copyrightable works and registrations and applications for registration thereof;
 - d. computer software, data, databases and documentation thereof;
 - e. trade secrets, ideas, formulas, compositions, inventions (whether patentable or not and whether or not reduced to practice), know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, and technical data; and
 - f. copies and tangible embodiments thereof (in whatever form or medium).
5. *Non-Alliance Work* means any contractual obligations undertaken by an Alliance Member that are negotiated and entered into outside of the Alliance and that are performed only at the local Alliance Network level with local providers, participants, hospitals, and hospital systems, and that are not substantially the same as work being performed or being sought by the Alliance. For purposes of clarity, Non-Alliance Work does not include work that will be undertaken for or on behalf of a health care payor.
6. *Protected Health Information ("PHI")* shall have the same meaning given in the Health Insurance Portability and Privacy Act of 1996 ("HIPAA") and the *Health Information Technology for Economic and Clinical Health ("HITECH")* Act as amended, specifically 45 C.F.R. § 160.103.

ARTICLE III: SCOPE

- A. Statewide Coverage.** The Alliance is being formed to pursue new business opportunities with any insurance provider or payer, hospital system, or any other healthcare entity wanting the services of the Alliance, with the intention of offering unified, statewide coverage to Alliance Customers.
- B. Independent Parties.** The Alliance Members are separate legal entities and intend to remain as such during any Term of this Agreement. Unless stated herein or in any Statement of Work entered into under this Agreement, Alliance Members shall have no legal liability for the obligations of other Alliance Members and each Alliance Member will be solely responsible for paying and supervising its employees and subcontractors. Nothing in this Agreement, or in any contract entered into with Customers, shall be deemed to create a Control Group Relationship (as that phrase is defined under the Internal Revenue Code) between the Parties. Nothing in this Agreement shall be deemed or construed to create, give effect to, or otherwise constitute a partnership, corporation, or any other formal business entity of any kind for any purpose, or any permanent relationship between the Alliance Members and the rights and responsibilities of the Alliance Members shall be limited to those expressly set forth herein or in a Statement of Work. As toward each other under this Agreement, Alliance Members will at all times remain independent contractors.
- C. Consistent Branding.** Work performed as part of the Alliance will use consistent branding, and Alliance Members agree to adhere to the *Community Care of North Carolina Brand Guidelines* as drafted and amended from time to time by CCNC. Alliance branding includes use of the phrase "Community Care of North Carolina", the blue and white propeller logo, and all other brands created by CCNC to denote Alliance work.

- D. **Statements of Work.** Specific engagements with any given Customer will be governed by discrete agreements in the form of a Statement of Work (“SOW”) or in any other form as appropriate and as mutually determined by Alliance Members, which SOWs will incorporate by reference the terms of this Agreement. Alliance Members are encouraged, but not obligated to be a party to every SOW entered into by the Alliance.

ARTICLE IV: TERM

This Agreement shall commence on the Effective Date identified above, and shall continue until terminated as contemplated herein or dissolved by law. It is understood that this Agreement shall terminate at the completion of the Customer contracts contemplated in Schedule B hereto, except that it is the Alliance Members’ intent to automatically extend this Agreement in term each time a new Customer contract is identified and corresponding SOWs executed accordingly by the Alliance Members.

ARTICLE V: ALLIANCE COUNCIL

- A. **Alliance Council’s Role.** The business and affairs of the Alliance shall be governed by a council (the “Alliance Council”), which is responsible for the Alliance’s overall policy and direction. Specific powers of the Alliance Council shall include determining goals for the Alliance consistent with the Alliance’s Purpose; deciding which Customer contracts the Alliance Members may enter into and the terms and conditions thereof; deciding upon the distribution and allocation of work and compensation related to Customer contracts, and monitoring and enforcing Alliance Members’ compliance with this Agreement.
- B. **Composition and Alternates.** The Alliance Council shall be composed of one (1) representative of each Alliance Member.
1. *Primary and Alternate Representatives.* Each Alliance Member shall appoint one (1) primary representative and one (1) alternate representative to the Alliance Council, with both representatives to attend Alliance meetings where possible. The Alliance Members warrant that its representatives are duly authorized to deliberate, negotiate, decide and vote on behalf of the Alliance Member in all matters contemplated by this Agreement.
 2. *Non-Attendance at Meetings.* In cases where an Alliance Member’s primary and alternate representatives are not both in attendance simultaneously, it is up to the attending representative to debrief the non-attending representative after the meeting so that non-attending representative may continue to participate in Alliance business as if he or she were present at the meeting.
- C. **Meetings and Voting.**
1. *Chairperson.* The Alliance Council shall designate a chairperson to schedule and moderate meetings, and to distribute meeting materials to all attendees. The chairperson may be appointed on an annual basis, rotate between Alliance Members from meeting to meeting, or be chosen by any other method the Alliance Council deems suitable.
 2. *Regular Meetings.* Regular meetings of the Alliance Council shall be held on a monthly basis.
 3. *Special Meetings.* Special meetings of the Alliance Council may be called at any time by CCNC or by any two (2) other Alliance Members.
 4. *Meeting Notice.* Written notice of all regular and special meetings shall be provided or caused to be provided to Alliance Members by the Alliance Member(s) calling the meeting

(or in the case of regular meetings, by the Chairperson at least ten (10) business days in advance. Any Alliance Member may waive notice of any meeting. Attendance of an Alliance Member at any meeting shall constitute a waiver of notice of such meeting, except where the Alliance member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The notice shall provide the time and location of the meeting and, in the case of a special meeting, the reason for the meeting.

5. *Agenda.* A meeting agenda shall be circulated along with the meeting notice, which agenda shall be deemed accepted unless an Alliance Member notifies the other Alliance Members of additional items to add to the agenda at least two (2) business days in advance. Any business decision requiring a vote by the Alliance Council must be identified as such on the agenda.
 6. *Remote Attendance.* Alliance Members may attend regular and special meetings by video and telephonic means by any method that allows live discussion and voting.
 7. *Quorum.* The presence of two-thirds (2/3) of Alliance Members at any meeting shall constitute a quorum for the transaction of business, except that a vote requiring unanimous approval can only be taken if all Alliance Members are present.
 8. *Voting.* Except as otherwise provided in this Agreement, and so long as a quorum is present when the vote is taken, the vote of a supermajority two-thirds (2/3) of Alliance Members shall constitute the act of the Alliance. Notwithstanding the presence of both a primary and alternate representative at any given meeting, each Alliance Member shall have only one (1) vote to be exercised by the primary representative or, in the absence of the primary representative, his or her alternate.
 9. *Unanimous Approval.* Unanimous approval of the Alliance Members shall be required to authorize any amendments to the Alliance Agreement, including to add new members thereto, and the Alliance Council shall not take or cause the Alliance to amend this Agreement absent such Alliance Member approval.
 10. *Minutes.* At the beginning of every regular and special meeting, the Alliance Members shall designate an individual to record official minutes of the meeting. The secretary may be one of the designated representatives present, or a separate individual employed by one of the Alliance Members.
 11. *Consent of Alliance Members in Lieu of Meeting.* Any action to be taken at a regular or special meeting may be taken without such a meeting, and without prior notice, if a written consent, setting forth the action so taken, is signed by all Alliance Members.
- D. Committees.** The Alliance Council may create committees as needed, to be comprised of two (2) or more Alliance Members' designated representatives. Committees may be standing or ad hoc, as directed by the Alliance Council and shall report back to the full Alliance Council at all regular meetings, and at special meetings as required.

ARTICLE VI: CONFLICTS OF INTEREST

The Alliance Members recognize and acknowledge that each Alliance Members' designated representative's primary fiduciary duty is to the Alliance Member that he or she represents.

Notwithstanding this duty of loyalty, the Alliance Members agree to act in good faith in the conduct of all Alliance business, and with the best interest of the Alliance in mind to the extent those interests do not conflict with the above.

ARTICLE VII: ROLES AND RESPONSIBILITIES OF THE PARTIES

A. Mutual Responsibilities. Alliance Members shall have the following responsibilities to the Alliance and to each other:

1. *Good Faith Performance.* Alliance Members shall timely perform their obligations under this Agreement and under any SOW incorporating its terms, and to timely notify the Alliance of any anticipated problems that could inhibit their timely performance of such.
2. *Conflicts of Interest.* Alliance Members shall disclose to the Alliance any potential conflict of interest that it may have in regards to potential Alliance work as and when it becomes readily apparent to an Alliance Member that such a conflict does or may exist.
3. *Sharing of Information.* Alliance Members agree to disclose to the Alliance any information reasonably requested by the Alliance in order to evaluate prospective or actual Customer contracts in regards to the Alliance's ability to perform thereunder and to ensure that Alliance work and compensation are equitably and appropriately allocated as determined by the Alliance Council in order to ensure the most efficient distribution of work.
4. *Notification of Approach.* Alliance Members shall timely notify the Alliance of any approach by a third party regarding prospective Customer contracts or any business that might compete with Alliance interests.
5. *Alliance Council Votes Binding on Alliance Members.* Alliance Members shall abide by the results of any Alliance Council vote taken in accordance with this Agreement.

B. Responsibilities of CCNC. CCNC will assume the leadership of the Alliance and will have the responsibilities set out below, together with such other responsibilities as may be agreed by the Alliance Members from time to time. CCNC shall:

1. be the designated lead representative for Customer transactions;
2. act as spokesperson for the Alliance in negotiations with Customers;
3. except as otherwise set forth herein or agreed by the Alliance Members, act as the primary interface for the Alliance Members with Customers during the performance of Customer contracts; and
4. provide certain administrative services for the Alliance, which may include sales and marketing, account management, customer accounting and billing, IT infrastructure, and government affairs and policy as the Alliance deems appropriate.

C. Alliance Networks. Alliance Networks shall perform the Alliance's field activities and may provide additional administrative support to the Alliance as the Alliance deems necessary. Network further agrees to the following:

1. *Recognition of CCNC as Customer Liaison.* Given CCNC's role as contracting principal and customer liaison as outlined above, Alliance Networks agree to refer prospective Customers to CCNC. If communications are initiated by Customer directly with an Alliance Member other than CCNC, the Alliance Member so contacted shall use its best efforts to refer such communications to CCNC

or, if referral is not possible, to coordinate with CCNC prior to answering such communications.

2. *Assistance with Contractual Negotiations.* Notwithstanding Subsection C.1., above, the Alliance Networks agree to cooperate with and assist CCNC during Customer negotiations to the greatest extent reasonably possible in recognition of the fact that time is of the essence in these negotiations, including developing pricing and providing other information required by CCNC for negotiating and executing Customer contracts.
3. *Field Operations.* Alliance Networks shall complete tasks assigned to it according to each discrete SOW and such other responsibilities to which the Alliance may agree from time to time. Such tasks may include care management, pharmacy services, quality improvement, and provider services.
4. *Sharing of Information.* Alliance Networks agree to disclose all Non-Alliance Work at the request of the Alliance Council which request shall be made at least annually.

ARTICLE VIII: GEOGRAPHIC CONSIDERATIONS

Alliance Members recognize that historically Program Networks have had a defined geography for purposes of their responsibilities under the State Plan, which Network boundaries are not binding on the Alliance as to Alliance work going forward. As such, these boundaries shall constitute a starting point only and the Alliance shall collectively determine how Alliance work shall be allocated between Alliance Members, giving consideration to the need for statewide coverage, operational efficiency, Customer requirements, and individual Alliance Networks' capacity. In any given SOW, Alliance Networks will be given first consideration as to any work that falls within their State Plan boundaries as they exist at the time of executing the Agreement, but the Alliance Members recognize that the Alliance may deviate from these boundaries in line with the above-listed considerations.

ARTICLE IX: LIMITED AGREEMENT NOT TO COMPETE

Each Alliance Member must have confidence that the other Alliance Members are acting in the shared interests of the Alliance. While other Alliance Members are not by their nature competitive entities, agreements that do or may compete with Alliance interests erode that confidence. Consequently, and except for Already-Existing Agreements, Alliance Members agree not to bid for or enter into agreements for Non-Alliance Work that compete with Alliance Work or for work the Alliance is attempting to contract for, except as permitted by this Agreement.

ARTICLE X: CUSTOMER CONTRACT EXECUTION

- A. **CCNC to Negotiate Alliance Business with Customers.** As stated above, the Alliance Members designate CCNC as its sole representative for the purpose of negotiating contracts with Customers. CCNC in turn agrees that, to the extent practicable, it will consult with and seek input from the Alliance during its negotiations with such Customers.
- B. **Initial Contract Review by Individual Alliance Members.** CCNC agrees not to execute any agreements that bind the Alliance before presenting the draft agreement to the Alliance for review and approval by Alliance Members. Unless a shorter turnaround time is required by a Customer, each Alliance Member must approve or request changes to a proposed agreement within ten (10) business days of being presented with that agreement. If an Alliance Member fails to approve a proposed agreement within this time period, that Alliance Member forfeits its right to demand revisions to the proposed agreement and CCNC may assume that the non-responding Alliance Member consents to the proposed agreement. In the event a Customer dictates a shorter turnaround time, CCNC will attempt to negotiate a full ten (10) business days, but if CCNC is unable

to do so the shorter Customer turnaround time will control and all the deadlines contained within this Article shall be shortened accordingly.

- C. **Special Meeting to Discuss Prospective Agreement.** At the time CCNC distributes the proposed agreement to the Alliance Members for review and comment, it shall schedule a special meeting for the eleventh (11th) business day therefrom for the purposes of discussing any Alliance revisions to the proposed agreement. This meeting may be cancelled if all the Alliance Members have either approved the proposed agreement in writing or have forfeited the right to do so in accordance with Article X, Section B, above. At the special meeting, the Alliance Council shall discuss the various Alliance Members' requested changes and shall vote upon the form of CCNC's response to the Customer. At this special meeting, the Alliance Council may further discuss how the contracted work is to be divided up among the Alliance Members.
- D. **Material Changes Following Approval by the Alliance Council.** If any material changes are made to a proposed agreement after an individual Alliance Member has approved it without changes, or the Alliance Council has met and determined the form of the Alliance's response to a given Customer, the Alliance Members must be provided an additional five (5) business days in which to review and approve the revised agreement.
- E. **Allocation of Work.** Once CCNC has entered into an Alliance contract with a Customer, CCNC shall have ten (10) business days in which to present the Alliance Networks with draft SOWs detailing the work to be performed by each Network for the Customer and how each Alliance Member will be paid. Each Alliance Member must approve or request changes to a draft SOW within ten (10) business days of being presented with that SOW. If an Alliance Member fails to approve a draft SOW within this time period, CCNC may assume that the non-responsive Alliance Member does not wish to perform any work under the Customer contract at issue.
- F. **Special Meeting to Discuss SOWs.** At the time CCNC distributes the draft SOWs to the Alliance Members for review and comment, it shall schedule a special meeting for the sixth (6th) business day therefrom for the purposes of discussing the draft SOW. This meeting may be cancelled if all the Alliance Members have either approved the draft SOW in writing or have forfeited the right to do so in accordance with Article X, Section E, above. At the special meeting, the Alliance Council shall discuss and vote upon the terms of the SOWs to be applied to the Alliance Networks and how any remaining work that is not assigned to any of the Alliance Members shall be handled.

ARTICLE XI: FINANCES

- A. **Payments Between Alliance Members.**
 - 1. *No Cost to Join the Alliance.* There shall be no fee or other payment associated with joining or remaining a part of the Alliance.
 - 2. *Alliance Members to Bear Their Own Costs.* Except as provided otherwise in this Agreement or any SOW incorporating its terms, Alliance Members shall bear their own incidental costs incurred in performing under this Agreement, such as for attending meetings of the Alliance Council.
- B. **Finances to be Determined on a Case by Case Basis.** Payment rates and performance expectations applicable to each Alliance Member under any Customer contract will be as described in the individuals SOWs applicable to those Customer contracts. CCNC will negotiate with Customers to include payment terms that recognize the risks and responsibilities of the respective Alliance Members, and which include separate payment allocations for the Alliance Networks and for CCNC. Alliance Members acknowledge that a Customer may choose to pay only

CCNC, in which event, both the total payment due under the contract and the payment due from CCNC to Alliance Networks shall be determined as part of the contract execution process outlined in Article X.

- C. **Insurance Requirements.** Each Alliance Member shall provide, at its sole cost, commercial insurance of such types and with such terms and limits as shall be determined by the Alliance Council.

ARTICLE XII: ADDITION AND REMOVAL OF ALLIANCE MEMBERS; REMEDIES FOR BREACH

- A. **Addition of New Alliance Members.** The Alliance Members may add new members to the Alliance upon a unanimous vote of the then-existing Alliance Members and the execution of an amendment to this Agreement.
- B. **Voluntary Withdrawal of Alliance Members.** An Alliance Member may voluntarily withdraw from the Alliance upon ninety (90) days' written notice to the other Alliance Members subject to the successful transition of the withdrawing Alliance Member's responsibilities under any outstanding Customer contracts to the other Alliance Members. At any rate, this transition period shall not extend beyond one-hundred and eighty (180) days, unless otherwise agreed to by the remaining Alliance Members.
- C. **Removal of a Member for Cause.** The following actions by an Alliance Member shall give rise to the right for the non-breaching Alliance Members to vote to remove the breaching Alliance Member from the Alliance. In any such vote to remove a breaching Alliance Member, that breaching Member may not vote. If the non-breaching Alliance Members vote not to remove the breaching Alliance Member at or within the prescribed time as to any given breach, such choice will not waive their right to remove the breaching Alliance Member for cause as to any subsequent breach of this Agreement. This right to remove a breaching Alliance Member is not the only remedy available to the non-breaching Alliance Members for a given breach and all rights at law and in equity will remain available to the non-breaching Alliance Members seeking redress for such breach.
 1. ***Significant Data Breach.*** For purposes of this section, a significant data breach means a breach of PHI that requires public notification through media outlets of the breach, or more than two lesser but material data breaches of PHI which require notification to the affected party within any twelve (12) month period. If an Alliance Member, including any of its employees, subcontractors, or agents, causes or allows a significant data breach, the Alliance will have the right to remove the breaching Alliance Member. An Alliance Member that has caused or allowed a significant data breach must immediately stop using all PHI received from or on behalf of the other Alliance Members pending the Alliance's vote on whether the breaching Alliance Member should be removed from the Alliance and, in the event the Alliance votes to remove the breaching Alliance Member, the breaching Alliance Member must return or destroy all PHI received from or on behalf of the Alliance in its possession.
 2. ***Confidentiality Breach.*** If an Alliance Member receives Confidential Information from another Alliance Member, including from any agent or subcontractor, and subsequently uses that Confidential Information with any third party for any non-Alliance business, or allows that Confidential Information to be used by any third party for any non-Alliance business, then the Alliance shall have the right to remove the breaching Alliance Member. An Alliance Member that has caused or allowed a breach of Confidential Information must immediately stop using all Confidential Information received from or on behalf of the

other Alliance Members pending the Alliance's vote on whether the breaching Alliance Member should be removed from the Alliance and, in the event the Alliance votes to remove the breaching Alliance Member, the breaching Alliance Member must return or destroy all Confidential Information received from or on behalf of the Alliance in its possession.

3. *Misuse of Intellectual Property.* If an Alliance Member uses Intellectual Property from another Alliance Member, including from any agent or subcontractor, for any non-Alliance business, or allows that Intellectual Property to be used by any third party for any non-Alliance business, then the Alliance may vote to remove the breaching Alliance Member upon thirty (30) days' notice to the breaching Alliance Member; provided that if the breaching Alliance Member cures the breach to the Alliance's satisfaction within those 30 days, the Alliance shall withdraw its removal notice. An Alliance Member that has caused or allowed a breach of Intellectual Property must immediately stop using all Intellectual Property received from or on behalf of the other Alliance Members pending the Alliance's vote on whether the breaching Alliance Member should be removed from the Alliance and, in the event the Alliance votes to remove the breaching Alliance Member, the breaching Alliance Member must return or destroy all Intellectual Property received from or on behalf of the Alliance in its possession.
4. *Entering into Competing Contracts.* If the Alliance determines that an Alliance Member has entered into a contract in violation of Article IX of this Agreement, the Alliance may vote to remove the breaching Alliance Member upon thirty (30) days' notice to the breaching Alliance Member; provided that if the breaching Alliance Member is able to reassure the Alliance that the contract at issue does not violate Article IX or otherwise cures the breach to the Alliance's satisfaction within those 30 days, the Alliance shall withdraw its removal notice.
5. *Failure to Perform.* If any Alliance Member fails to meet specific performance obligations pertaining to that Alliance Member as set forth in any Customer contract, the Alliance may vote to remove the breaching Alliance Member upon thirty (30) days' notice to the breaching Alliance Member; provided that if the breaching Alliance Member cures the breach to the Alliance's satisfaction within those 30 days, the Alliance shall withdraw its removal notice. In the event the Alliance votes to remove an Alliance Member for failure to perform, the removed Alliance Member shall cooperate with the remaining Alliance Members in securing a replacement to take on and meet those obligations the removed Alliance Member failed to meet.
6. *Debarment or Exclusion.* If the Alliance determines that an Alliance Member, including any of its officers, directors, key employees, or key subcontractors, has been added to any official list of debarred or excluded entities, it may remove the breaching Alliance Member. Termination made under this provision will be effective immediately upon the debarred or excluded Alliance Member receiving notice of the removal. If the Alliance determines that an Alliance Member's debarment or exclusion does not warrant removal, the Alliance Members will instead negotiate an acceptable remedy to cure any damage caused by the debarment or exclusion. If the Alliance Members are unable, after sixty (60) days to reach a mutually acceptable accommodation, the non-breaching Alliance Members may vote to remove the breaching Alliance Member. If employees or subcontractors of an Alliance Member become debarred or excluded, those employees or subcontractors must be removed immediately from any work under any Customer

contract.

7. *Bankruptcy, Receivership, or Dissolution of an Alliance Member.* If an Alliance Member files a petition for relief under the United States Bankruptcy Code or has an involuntary petition filed against it, is the subject of a receivership action or similar filed in state court, or has its legal status as a corporate entity revoked by the State of its incorporation or organization, the remaining Alliance Members may vote to remove it from the Alliance.
 8. *Conduct Detrimental to the Alliance.* If the Alliance determines that an Alliance Member, including any of its officers, directors, key employees, or key subcontractors has engaged in conduct detrimental to the Alliance or in opposition to the Alliance's Purpose, the Alliance may vote to remove the breaching Alliance Member upon thirty days' notice to the breaching Alliance Member, provided that if the Alliance Member cures the breach to the Alliance's satisfaction within those 30 days, the Alliance shall withdraw its removal notice.
- D. Repeated Material Breaches.** If an Alliance Member materially breaches this Agreement, but thereafter cures its breach within 30 days such that the Alliance withdraws its removal notice, that Alliance Member shall forfeit its right to a cure period for a successive material breach of the same type.
- E. Effect of Removal of Alliance Member.** If an Alliance Member is removed from the Alliance, such Alliance Member will no longer be considered part of the Alliance. The removed Alliance Member will not be eligible to participate in any new Alliance contracts except as a subcontractor, and only at the sole discretion of the Alliance.
- F. Liability Towards Each Other.** The Alliance Members agree to limit their liability to one another to the policy limits of the insurance policies carried by each Alliance Member. This limitation of liability remains in effect for a given Alliance Member only so long as that Alliance Member maintains the required types and amounts of insurance as determined by the Alliance. In addition, this limitation of liability does not apply to any breach of the confidentiality, intellectual property, or the general representations and other warranties provisions. Further, this limitation of liability will not apply to any gross negligence or any intentional acts resulting in death or serious injury to a person.
- G. Liability Towards Third Parties.** If the acts or omissions of an individual Alliance Member in the performance of Alliance work result in loss or injury to a third party, that Alliance Member alone shall be liable to the third party; and the Alliance Member causing the third party loss or injury agrees to indemnify the remaining Alliance Members against any claims made by the third party against the non-responsible Alliance Members.
- H. Liability for Subcontractors.** Each Alliance Member shall be fully liable for the performance of any part of its share of Alliance work undertaken pursuant to a SOW, and in the event an Alliance Member deems it necessary to subcontract any of its responsibilities under a SOW to a third party, the Alliance Member remains primarily liable for its performance, and no other Alliance Member shall be liable for the performance of that subcontractor. EXCEPT THAT, if the Alliance is unable to fulfil the requirements of a given Customer contract and the Alliance collectively determines that a part of the work needs to be contracted to a third party subcontractor, the Alliance shall retain collective responsibility for that subcontractor's performance notwithstanding the fact that the subcontractor's agreement may only be with a single Alliance Member.
- I. LIMITATION OF LIABILITY.** IN NO EVENT SHALL ANY ALLIANCE MEMBER BE LIABLE TO ANY OTHER

ALLIANCE MEMBER, WHETHER BASED ON CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER ANY WARRANTY OR OTHERWISE, PURSUANT TO THIS AGREEMENT, OR FOR ACTIVITIES CONDUCTED UNDER OR IN CONNECTION WITH THIS AGREEMENT, BY ANY THEORY OF RECOVERY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

- J. **Remedies not Exclusive.** The rights and remedies of the Alliance Members under this Agreement at law and in equity shall be cumulative and shall not be construed as available only in the alternative.
- K. **Right to Equitable Relief.** Alliance Members acknowledge that a material breach by any Alliance Member of the confidentiality, intellectual property, data use, or insurance provisions in this Agreement would cause injury and damage which could not reasonably or adequately be compensated for in an action at law. Alliance Members therefore expressly agree that other Alliance Members will be entitled to injunctive and other equitable relief in the event of a material breach of these provisions, or to prevent the imminent breach of any such provision by an Alliance Member or any entity acting for or on its behalf, without the need for prior proof or any posting of bond. Resort to equitable relief will not be construed to be a waiver of any other rights or remedies of the Alliance Members.

ARTICLE XIII: CONFIDENTIALITY

Confidential Information disclosed to an Alliance Member must be kept confidential until it has been disclosed publicly by someone authorized by the owner of the Confidential Information to make that disclosure. Confidential Information must only be used for the specific purpose for which it was disclosed. An Alliance Member receiving Confidential Information must take all reasonable measures to prevent any unauthorized disclosure. At a minimum, Alliance Members must treat Confidential Information with as much security as it treats its own confidential information, and never with less than reasonable care. When the specific purpose for Confidential Information ends for any reason, that Confidential Information, including all copies, must be returned to the disclosing party or destroyed with a certificate of destruction attested by the person responsible for its destruction. Records that cannot be destroyed or returned, including Confidential Information shared in an intangible form, must be kept confidential in perpetuity. A record of each agreement may be retained securely as a record of Alliance Members' obligations under the agreement. Additional confidentiality obligations may be included as part of a SOW.

ARTICLE XIV: INTELLECTUAL PROPERTY

- A. **Ownership of Existing Intellectual Property.** Alliance Members will retain all right, title, and interest in all Intellectual Property it owned prior to this Agreement.
- B. **Ownership of Newly Created Intellectual Property.** Except as otherwise provided in an individual SOW, ownership of any Intellectual Property developed as part of a SOW shall be granted to CCNC to hold on behalf of the Alliance collectively.

ARTICLE XV: TERMINATION

- A. **Events Triggering Termination.** This Alliance Agreement shall terminate in its entirety upon the occurrence of any of the following events:
1. A unanimous vote of the then existing Alliance Members to terminate the Agreement;
 2. The voluntary withdrawal or involuntary removal of a sufficient number of Alliance Members such that the remaining Alliance Members are unable to perform the then-outstanding Customer contracts; and

3. The Alliance is unable to procure sufficient contracts to enable the Alliance to fulfil its Purpose.

- B. Effect of Termination.** In the event of termination of this Agreement, the Alliance Members shall continue to work together to fulfil the terms of any Customer contracts then in existence until such time as the Alliance Members are able to complete their responsibilities or transition the work to such other contractors that may complete those responsibilities in accordance with the terms of the Customer contract.

ARTICLE XVI: AMENDMENTS

This Agreement may only be amended by a writing signed by all Alliance Members as listed on Schedule A, as amended.

ARTICLE XVII: FRAMEWORK AGREEMENT

This Agreement is intended to supersede and replace the prior Framework Agreements that existed between CCNC and those Program Networks who are parties to this Agreement. By executing this Agreement, the parties intend that those Framework Agreements are terminated.

ARTICLE XVIII: REPRESENTATIONS

Alliance Members each individually represent and warrant to the other Alliance Members as follows:

- A. Authority.** The Alliance Member and its signatory herein below have full right, power, and authority to enter into this Agreement.
- B. Capacity.** The Alliance Member has the experience, capability, and resources necessary to carry out the obligations contemplated by this Agreement and reasonably anticipated to be contemplated by all subsequent Alliance contracts.
- C. Compliance with Laws.** The Alliance Member will comply with all applicable federal and State laws and regulations at all times while performing under this Agreement and under any agreement with any Interested Third Party. Without limiting the generality of the foregoing, each Alliance Member specifically acknowledges its obligation to comply with HIPAA and HITECH, North Carolina General Statute § 75-1, and North Carolina General Statute § 75-60 *et seq.*
- D. Conflicts.** The Alliance Member will not enter into contracts with third parties that would or might reasonably be seen as preventing it from performing fully its obligations under this Agreement and under any agreement with an Interested Third Party.
- E. Debarment and Exclusion.** The Alliance Member (including its officers, directors, key employees, and key subcontractors) is not as of the Effective Date debarred or in any other way excluded from contracting with the federal government or the State of North Carolina. The Alliance Member further acknowledges it must notify other Alliance Members within twenty-four (24) hours of being made aware that it, or any of its officers, Directors, key employees, or key subcontractors, has become debarred or has been excluded from contracting with either the federal government or the State of North Carolina.

ARTICLE XIX: DISPUTE RESOLUTION

- A. Notification of Dispute.** In the event an Alliance Member wishes to submit a dispute, controversy or claim of any kind arising from this Agreement (a "Dispute") for resolution, such Alliance Member shall commence the dispute resolution process by providing the other Alliance Members

with written notice of the Dispute. The Notice shall identify the Alliance Members that are a party to the Dispute and contain a brief statement of the nature of the Dispute and the relief requested.

- B. Negotiations.** Upon written notice of any Dispute, the parties shall attempt to resolve it promptly by negotiation between executives who have authority to settle the Dispute and this process should be completed within thirty (30) days.
- C. Mediation.** If the Alliance Members involved are unable to resolve their Dispute through informal negotiation, the Alliance Members agree to participate in mediation prior to filing litigation.

 - 1. *Selection of Mediator.* The parties shall agree on a mediator; however, if they cannot agree within fourteen (14) days then those Alliance Members who are not parties to the Dispute shall select a mediator for the disputing parties. In the event all Alliance Members are parties to the Dispute, the Alliance Members agree to delegate the selection of a mediator to a professional mediators association, such as *The North Carolina Academy of Superior Court Mediators*.
 - 2. *Mediation Process.* The mediation session shall be held within forty-five (45) days of the selection of the mediator, and last for at least one (1) full mediation day, and all parties to the dispute shall participate in good faith before any party has the option to withdraw from the process. The parties to the Dispute may agree to continue the mediation process beyond one day until there is a settlement agreement or until one party or the mediator states there is no reason to continue because of an impasse that cannot be overcome. All reasonable efforts will be made to complete the mediation within thirty (30) days of the first mediation session.
- D. Costs and Attorneys' Fees.** Unless otherwise agreed by the parties to the Dispute, the parties shall bear their own attorney fees during negotiation and mediation. Fees and costs charged by the mediator shall be split equally between the parties to the Dispute.
- E. Tolling of Statutes of Limitation.** Service of the notice of Dispute shall stay the running of any applicable statute of limitations regarding the Dispute until thirty (30) days after the parties to the Dispute agree that the mediation is concluded or the mediator issues a Notice of Impasse.
- F. Confidentiality of Proceedings.** All communications, both written and oral, during the negotiation and mediation phases detailed above are confidential and shall be treated as settlement negotiations for purposes of applicable rules of evidence; however, documents generated in the ordinary course of business prior to the Dispute, that would otherwise be discoverable, do not become confidential simply because they are used in the Negotiation and/or Mediation process. The process shall be confidential based on terms acceptable to the mediator and/or mediation service provider.
- G. Enforceability of Settlements Reached by Negotiation or Mediation.** Agreements reached by negotiation or mediation under this Article shall be as enforceable as settlement agreements in any court having jurisdiction thereof.

ARTICLE XX: MISCELLANEOUS

- A. Notice.** All notices required or permitted to be given under this Agreement must be in writing and delivered personally or by certified or registered mail, return receipt requested, postage prepaid, or by a nationally recognized courier (i.e. FedEx, UPS or DHL), to Alliance Members at their address as listed on Schedule A. Alliance Members agree to notify the Alliance within ten

(10) business days of any change of notice address, and Alliance Members will update Schedule A accordingly.

- B. Assignment and Subcontractors.** No assignments or subcontracting of this Agreement or any SOW incorporating its terms are allowed without the written authorization of all other Alliance Members.
- C. Integration.** This Agreement, with all attachments, contains the entire understanding between the Alliance Members with regard to the subject matter herein and supersedes all prior or contemporaneous written and oral agreements between the Parties.
- D. Severability.** If any of the provisions of this Agreement are determined by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement will remain in full force and effect and the invalid, void, or unenforceable provision will be deemed not part of this Agreement.
- E. No Waiver.** No waiver of the enforcement of any obligation or right created by this Agreement by an Alliance Member will act as an amendment or modification of this Agreement, nor will it bar any subsequent enforcement of any such obligation or right.
- F. Governing Law.** This Agreement will be governed by and construed under, and the rights and liabilities of the Parties determined by, the laws and regulations of the State of North Carolina.
- G. Survivability.** Any provisions of this Agreement that by their nature extend beyond the term or expiry of this Agreement will survive the termination or expiration of this Agreement.
- H. Duplicate Copies, Electronic Copies, and Electronic Signatures.** This Agreement may be executed simultaneously in one or more counterparts, each of which is deemed an original but all of which together constitute a single instrument. A conflict will not render the Agreement or the affected term, condition, or provision void, invalid, or unenforceable. Copies transmitted electronically are the equivalent of originals, as are signatures applied to such documents and transmitted electronically. The Parties agree that signed electronic copies will be binding upon them the same as though they were hardcopies with original signatures.

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, execute this Agreement as of the dates provided below.