

**NORTH CAROLINA ALLIANCE OF PUBLIC HEALTH AGENCIES, INC. (NCAPHA)  
CONTRACT**

This Staffing Agreement ("Agreement") is entered into by and between Yadkin Human Services Agency (Client) and the North Carolina Alliance of Public Health Agencies, Inc. (Agency) for the purpose of using Alliance Staffing Professionals to provide professional services at Client's facility(ies).

1. **DESCRIPTION OF SERVICES.** Alliance Staffing will use its best efforts to recruit qualified Professionals in accordance with Client's specifications for staffing of Client's facility. Exhibit A sets forth the specific services to be furnished by Agency, together with current fees for these services.
2. **ALLIANCE STAFFING PERSONNEL QUALIFICATIONS.** Agency will provide Client with qualifications of the Alliance Staffing Professionals, including a completed application. When Alliance Staffing Personnel have been confirmed for an assignment with Client, Agency will provide Client with the requirements that can be found in Exhibit B.
3. **COMPENSATION TO AGENCY.** Agency will invoice Client for services rendered under this Agreement in accordance with the Schedule of Rates outlined in Exhibit A of this Agreement. Should Agency be required to pay Alliance Staffing Personnel any wage/hour penalty as required by state or federal law, such penalty shall be billed at the regular rate. Payment by Client shall be due upon receipt of an invoice from Agency. Information appearing on the invoice shall be deemed accurate and affirmed by Client unless Client notifies Agency in writing, specifying the particular error(s), omission(s), or objection(s). Failure to notify Agency within that time shall constitute a waiver of any objection thereto. Agency may impose a finance charge of one and one-half (1 ½) percent per month to all outstanding amounts unpaid by for thirty (30) days or more. In the event that any action is brought to enforce or interpret this Agreement, the prevailing party shall recover its costs and reasonable attorneys' fees in bringing such action.

The Client will also reimburse the Agency for advertising conducted while recruiting specific personnel when advertising is done at the request of the Client.

4. **TERMINATION OF ASSIGNMENT.** The assignment of Alliance Staffing Personnel will be terminated by Agency upon receipt of client's written request. If Alliance Staffing Personnel are terminated for cause, the Agency requires the Client provide in writing that the Alliance Staffing Personnel is incapable of performing the duties of the position, commits acts of professional negligence, is absent from the position without Client's permission during scheduled times, is insubordinate, engages in substance abuse, violates Client's express rules or regulations, is dishonest, engages in illegal discrimination towards staff patient(s) or legal guardian, loses license, becomes in poor standing with an applicable board or engages in other unprofessional conduct or breach of or neglect of duty. For any reasons other than those listed above, the Client agrees to give Agency sufficient written notice of cancellation of any Alliance Staffing Personnel at least fifteen (15) days in advance.

To the extent permitted by law, Client shall indemnify Agency for all costs, liabilities or losses associated with defending any charge, complaint, claim, action, cause of action or suit (hereinafter collectively referred to as "claim(s)" by (1) any governmental or administrative agency and/or (2) any Alliance Staffing Personnel or anyone acting on his/her behalf, in which Client's action/inaction has given rise to, in whole or in part, the underlying claim. This may include, but is not limited to, claims for breach of contract, defamation, invasion of privacy, intentional or negligent infliction of emotional distress, wrongful discharge, discrimination, harassment, retaliation, or any federal, state or other governmental statute or regulation. In the event that any action is brought to enforce or interpret this Agreement, the prevailing party shall recover its costs and reasonable attorneys' fees in bringing such action.

To the extent permitted by law, Agency shall indemnify Client for all costs, liabilities or losses associated with defending any charge, complaint, claim, action, cause of action or suit (hereinafter collectively referred to as "claim(s)" by (1) any governmental or administrative agency and/or (2) any Alliance Staffing Personnel or anyone acting on his/her behalf, in which Agency's action/inaction has given rise to, in whole or in part, the underlying claim. This may include, but is not limited to, claims for breach of contract, defamation, invasion of privacy, intentional or negligent infliction of emotional distress, wrongful discharge, discrimination, harassment, retaliation, or any federal, state or other governmental statute or regulation. In the event that any action is brought to enforce or interpret this Agreement, the prevailing party shall recover its costs and reasonable attorneys' fees in bringing such action.

5. **TIMESHEETS AND REPORTING OF HOURS WORKED.** Client shall report all hours worked for each pay period within two business days following the close of the pay periods. Pay periods are defined as first (1<sup>st</sup>) through fifteenth (15<sup>th</sup>) of the month and the sixteenth (16<sup>th</sup>) through the last day of the month.
6. **MEDICARE ACCESS.** In compliance with Section 420.302(b) of the Medicare regulations, until the expiration of four years after the furnishing of services provided under this Agreement, Agency will make available to the Secretary, U.S. Department of Health and Human Services, the U.S. Comptroller General, and their representatives, this Agreement and all books, documents and records necessary to certify the nature and extent of the costs of those services.
7. **EQUAL EMPLOYMENT OPPORTUNITY POLICY.** All parties acknowledge that they are equal opportunity employers and agree that they do not and will not discriminate against, harass, or retaliate against any employee or job applicant on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, or any other status or condition protected by applicable federal, state or local laws.

Client agrees that it will promptly investigate allegations of discrimination, harassment, and retaliation. Client further agrees that it will report to Agency any suspected discrimination, harassment and/or retaliation either by or against Alliance Staffing Personnel immediately.

8. NOTICES. All notices, demands, requests or other instruments which may be or are required to be given hereunder shall be in writing and sent to the addresses set forth below, by hand delivery, certified mail – return receipt requested, or via overnight courier, postage prepaid.

AGENCY: NC Alliance of Public Health Agencies, Inc.  
222 N. Person Street, Ste. 208  
Raleigh, NC 27601

CLIENT: Yadkin County Human Services Agency  
PO Box 548  
Yadkinville, NC 27055

The addresses provided herein are conclusively deemed to be valid, and notice given in compliance with this paragraph shall be conclusively presumed to be proper and adequate, unless a written change of address is provided to all Parties.

9. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments and practices between the parties. No amendments to this Agreement may be made except by written agreement.
10. PERFORMANCE EVALUATION. Client agrees to complete a written evaluation regarding the performance of each Agency employee assigned to them as needed and/or upon completion of their assignment after at least one year of service, at their discretion, and to forward this evaluation to Agency Human Resources Director. Client may choose to complete the performance evaluation provided by the Agency or a comparable form of their choosing.
11. CONFIDENTIAL INFORMATION. The Parties shall comply with HIPAA regulations, keep confidential all Confidential Information of Agency, and shall not use or disclose such Confidential Information either during or at any time after the term of this Agreement, without Agency's express written consent, unless required to do so by law, court order or subpoena in which case Client shall not disclose such information until it has provided advance notice to Agency such that Agency may timely act to protect such disclosure. For purposes of this provision, "Confidential Information" means non-public information about Agency and its employees that is disclosed or becomes known to Client as a consequence or through its activities under this Agreement, including, but not limited to, matters of a business nature, such as Alliance Staffing Personnel and prospective Alliance Staffing Personnel names and information, bill rates, compensation and benefits packages and structure, hiring decision-making process, hiring needs and/or requests for placement, costs, profits, margins, markets, sales, business processes, information systems, and any other information of a similar nature.
12. CONSENT TO FAX, CALL, EMAIL. In order to ensure that Agency is in compliance with all FCC regulations, Client hereby expressly grants permission to Agency to

telephone and email Client and its employees, and to send any and all future facsimile communications to all Client fax numbers.

13. TERMS. The term of this Agreement shall be for a period of one (1) year, ending **June 30, 2018**. Either party may terminate the contract at any time upon provision of thirty (30) days written notice to the other party, provided however, all Alliance Staffing Personnel currently confirmed for an assignment, or at work on an assignment, will be permitted to complete their assignments, in accordance with the terms of this Agreement.

14. CLIENT TRAINING. Client agrees to comply with OSHA Bloodborne Pathogen Exposure Control regulations found under OSHA Standard 29 C.F.R.e.1910. The Client certifies that it has developed and follows an Exposure Control Plan in conformance with those regulations. At the time of initial assignment to tasks where occupational exposure may occur, Client will provide the Alliance Staffing Personnel with training in compliance with OSHA Standard 29 C.F.R.e.1910. Client agrees to provide post exposure evaluation and follow-up pursuant to OSHA Standard 29 C.F.R.e.1910, if an exposure incident occurs to any Alliance Staffing Personnel. Client agrees to provide copies of all records of post-exposure care to Agency.

Client agrees to orient Alliance Staffing Personnel to Client's policies, procedures, operations and OSHA/Infection Control procedures, and inform the Agency of training dates and any changes in the Client's policies and procedures.

15. INDEMNIFICATION. To the extent permitted by law, Client agrees to indemnify and hold harmless Agency for any and all administrative fines, legal judgments, damages, attorney's fees, or costs resulting from lawsuits or administrative enforcement actions, which it may suffer, sustain, or become subject to as a result of any act or omission of the Client or the Client's officers, employees, agents or servants in performing its duties hereunder.

To the extent permitted by law, the Agency agrees to indemnify and hold harmless Client for any and all administrative fines, legal judgments, damages, attorney's fees or costs resulting from lawsuits or administrative enforcement actions, which it may suffer, sustain, or become subject to as a result of any act or omission of the Agency or the Agency's officers, employees, agents or servants in performing its duties hereunder.

AGREED AND ACCEPTED

IN WITNESS WHEREOF, the parties have caused their duly authorized officials to execute this Agreement on the date indicated above.

AGENCY:

By: Joanne Brasington  
Date: 6/14/17

CLIENT:

By: Kim Phillips  
Date: 7-5-17

THIS instrument has been pre-audited in the manner required by the local Government Budget and Fiscal Control Act.

Client Finance Director:

Tom W. Sarratt

Digital signature of Tom W. Sarratt  
DN=cn=Tom W. Sarratt, o=Yadkin County  
ou=Finance  
email=twsarratt@yadkincountync.gov, c=US  
Date: 2017-07-05 10:02:36-0400

**EXHIBIT A**  
**RATE SCHEDULE**

- A. COMPENSATION OF ALLIANCE STAFFING PERSONNEL.** Client will designate a representative to report to Agency all time worked by each Alliance Staffing Personnel on a mutually agreed schedule. Agency has responsibility for all compensation of Alliance Staffing Personnel working at Client's facility(ies) under this Agreement, including payment of wages, tax withholdings, professionals' compensation premiums, Social Security and all other obligations imposed on employers by federal, state and/or local laws and regulations. Agency will comply with federal, state and local labor and employment laws applicable to Alliance Staffing Personnel and with all provisions of the ACA applicable to Alliance Staffing Personnel, including the employer shared responsibility provisions relating to the offer of "minimum essential coverage" to "full-time" employees (as those terms are defined in Code §4980H and related regulations) and the applicable employer information reporting provisions under Code §6055 and §6056 and related regulations. In addition to Agency duties and responsibilities set forth in paragraph 1, Agency, as the common law employer, has the right to physically inspect the work site and work processes; to review and address, unilaterally or in coordination with Client, Alliance Staffing Personnel work performance issues; and to enforce Agency employment policies relating to Alliance Staffing Personnel conduct at the worksite. If the Alliance Staffing Personnel does not report to work for illness or some other reason outside of Client's control, Client will not be billed for these hours except in the case of salaried Alliance Staffing Personnel, with leave concession addressed at time of hire. Agency will obtain and keep on file all documentation required by the U.S. Immigration and Naturalization Service to prove legal status to work and reside in the United States.
- B. INSURANCE AND SAFETY LAWS.** At Client's request, Agency will provide certificates evidencing professionals' compensation, general liability and professional liability insurance coverage. Client accepts responsibility for compliance with all relevant safety and health laws and regulations during the period of the Alliance Staffing Personnel's assignment under Client's supervision, including but not limited to JCAHO regulations relating to orientation and evaluation and HIPAA regulations. While Agency will give each Healthcare Professional a safety and standards manual relating to safety, universal precautions, occupational exposure to bloodborne pathogens, other safety issues and HIPAA regulations, Client will also provide each Alliance Staffing Personnel with all necessary site-specific training, orientation and evaluations that may be required by federal, state or local occupational safety laws or rules, including JCAHO and HIPAA, for members of Client's workforce. Further, Client will only assign Alliance Staffing Personnel to work in the clinical specialty areas in which they are professionally qualified and oriented to work. In the event of any actual or threatened claim arising out of or relating to the acts of omissions of the Alliance Staffing Personnel, Client shall provide Agency written notice of such claim promptly and, in no event, later than 30 days after Client knew, or reasonably should have known of such claim.
- C. SCHEDULE OF RATES.** Hourly rates are determined by the Agency with the Client plus a 33% administrative fee. For Salaried Alliance Staffing Personnel whose annual salary, excluding the administrative fee, is less than \$100,000, and works a fixed schedule and receives the same salary each pay period, an administrative fee of 24% will

apply after 90 days of employment. For Salaried Alliance Staffing Personnel whose annual salary, excluding the administrative fee, total more than \$100,000, an administrative fee of 19% will apply. Travel and work-related expenses will be based on the approved county travel reimbursement rate. Environmental Health professionals will be compensated for travel, meals and lodging at the approved county travel reimbursement rate. Travel and work-related expenses are exempt from the administrative fee.

D. OVERTIME. This Paragraph is only applicable to Alliance Staffing Personnel who are eligible to receive overtime compensation pursuant to applicable law. Client will be billed one and one-half (1.5) times the rate set by the Client for time worked by Alliance Staffing Personnel for all hours worked more than forty (40) hours per week and in accordance with state and federal wage and hours laws. If, during the terms of this Agreement or at any time, any applicable law requires Agency to pay overtime to its Alliance Staffing Personnel based on any standard other than 40 hours per week, Agency shall bill the overtime rate pursuant to the applicable law. Agency may comply with Client's policies regarding overtime when they follow state and/or federal wage and hours laws and are communicated at the time of the contract or communicated to Agency at least ninety (90) days prior to the effective date of such changes.

**EXHIBIT B**  
**REQUIREMENT GUIDELINES**

| <b><u>REQUIRED:</u></b>           | Schedule  | Interpretation   |
|-----------------------------------|---|--|
| Hepatitis B                       | 2 doses ,4 weeks apart; 3 <sup>rd</sup> dose ,5 months after 2 <sup>nd</sup> , booster not necessary  | NCAPHA's policy follows CDC recommendations. Documentation of 3 doses of Hepatitis B vaccination (at appropriate intervals), serologic proof of immunity or declination of the series of vaccines signed by the healthcare worker.   |
| MMR (Measles, Mumps, Rubella)     | 2 doses ,4 weeks apart  | NCAPHA's policy follows CDC recommendations for healthcare personnel (HCP) born in 1957 or later without serologic evidence of immunity or prior vaccination give 2 doses of MMR, 4 weeks apart. For HCP born prior to 1957, is considered acceptable evidence of measles, mumps and rubella immunity, however NCAPHA follows CDC recommendation that a HCP get a titer but it is not required (unless a work site requirement.) |
| Varicella (chicken pox)           | 2 doses,4 weeks apart   | NCAPHA follows CDC recommendation all HCP who have no serologic proof of immunity, prior vaccination, or history of varicella disease, give 2 doses of varicella vaccine, 4 weeks apart; all HCP be immune to varicella with proof of Titer.   |
| <b><u>HIGHLY RECOMMENDED:</u></b> | <i>[Not Required]</i>   | <b><u>Employee must obtain if required by their work site.</u></b>   |
| Influenza                         | Annual influenza vaccine  | Highly recommended by NCAPHA (must be obtained if required by employee's work site.)   |
| Tetanus, diphtheria, pertussis    | Td booster every 10 years after one Tdap  | NCAPHA follows CDC recommendation all HCP get a Td booster does every 10 years, following the completion of the primary 3-dose series. Also, All HCP younger than 65 get a 1-time does of Tdap, if they have direct patient contact.   |
| Tuberculosis Skin Test Screening  | Upon Hire –Two step TST; Annual TB skin test for settings classified as medium risk for HCWs who have the potential for exposure to M. Tuberculosis through air space shared with persons with TB disease | NCAPHA's policy for Tuberculosis screening follows CDC recommendations.  |

|  |  |   |
|--|--|---|
| State license, registration or certification (when required)     | Per state board of nursing or other licensing agency | NCAPHA contacts the State Board or other licensing agency prior to the Alliance Staffing Personnel's start date to confirm that the license, registration or certification is active and in good standing. NCAPHA will not knowingly employ a professional that has an action against their license.  |
| BCLS (CPR)   | Current Card   | NCAPHA accepts current BCLS certification from either AHA, Red Cross, or hospital issued cards as long as they are the standard requirements for Alliance Staffing Personnel.   |
| Criminal Background Check  | Performed upon hire                                  | NCAPHA's policy is to conduct Criminal Background Checks upon hire on all Alliance Staffing Personnel unless otherwise instructed by client. If there is a gap in employment or the Alliance Staffing Personnel leaves the company for more than 6 months, a criminal background check will need to be updated prior to the start of the next assignment.   |
| OIG Sanctions Check  | Upon application                                     | NCAPHA has a check procedure in place. Each applicant is checked against the OIG database upon application.   |
| I-9  | Upon hire and if documents expire                    | NCAPHA collects a completed I-9 and the appropriate INS required documentation on every Alliance Staffing Personnel member prior to their start date.   |
| <i>NCAPHA participates in E-Verify<br/>(As required by law.)</i> | Upon hire  | <p>NCAPHA will provide the Social Security Administration (SSA) and, if necessary, the Department of Homeland Security (DHS), with information from each new employee's Form I-9 to confirm work authorization.</p> <p><b>IMPORTANT:</b> If the Government cannot confirm that a new hire is authorized to work, this employer is required to give new hires written instructions and an opportunity to contact DHS and/or the SSA before taking adverse action against you, including terminating their employment. NCAPHA will not use E-Verify to pre-screen job applicants and may not limit or influence the choice of documents new hires present for use on the Form I-9. To determine whether Form I-9 documentation is valid, NCAPHA uses E-Verify's photo matching tool to match the photograph appearing on some permanent resident cards, employment authorization cards, and U.S. passports with the official U.S. government photograph. E-Verify also checks data from driver's licenses and identification cards issued by some states.</p> |



## NC Alliance of Public Health Agencies, Inc.

*Alliance Staffing*

222 N. Person St, Suite 208, Raleigh, NC 27601

[www.ncapha.org](http://www.ncapha.org)

### MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("Agreement") is entered into by and among the North Carolina Alliance of Public Health Agencies, Inc. ("NCAPHA") and the Yadkin County Health Department ("LHD") (collectively referred to as the "Parties") to reflect their mutual agreement regarding the provision of Medicaid cost report consulting services by NCAPHA to the LHD and the sharing of confidential and protected health information in compliance with state and federal law. This agreement covers services rendered by NCAPHA during the period of July 1, 2017 through June 30, 2018 for the cost reporting years referenced below.

#### **Objective:**

LHD wishes to engage NCAPHA to prepare and file an annual cost report to the NC Division of Medical Assistance ("NC DMA"), work to resolve prior years' cost settlements on behalf of the LHD, and to work with the LHD to refine its cost report data and the systems and procedures in place to produce the data.

#### **1. NCAPHA will:**

- Employ qualified staff to complete and file the LHD's cost reports in accordance with the requirements of Section 9 of the North Carolina State Plan Under Title XIX of the Social Security Act ("Medicaid Plan"), Attachment 4.19-B, "Methods and Standards for Establishing Payment Rates – Other Types of Care."
- Follow lines of communication approved by the LHD with regard to cost reporting.
- Provide LHD staff with appropriate training and instructions on completion of their Medicaid cost reports.
- Provide a comprehensive review and verify the accuracy of all information on all exhibits submitted by the LHD before completing/submitting Medicaid cost reports.
- Assure that the LHD Attestation/Certification Letter is signed before the Medicaid cost report is filed with the NC DMA.
- Work with the LHD and its practice management system vendors to reconcile any statistical reporting anomalies or other data issues or irregularities related to reporting of services and costs.
- File on the LHD's behalf an annual cost report with the NC DMA for a cost settlement for services rendered under the NC Medicaid program, contingent upon the LHD's payment of the annual assessed fee to the NCAPHA for cost reporting and settlement completion.
- Provide the LHD's Finance Officer with a copy of the Cost Report Summary that summarizes all aspects of the cost report once the report is completed.
- Participate upon request of the LHD in planning meetings with the North Carolina Association of Local Health Departments ("NCALHD") leadership and Chair of the Association's Policy and Finance Committee to discuss any issues of general or common interest to LHDs in the State related to Medicaid cost reports.
- Use appropriate methods to protect the confidentiality of patient protected health information it receives from the LHD.

**2. LHD will:**

- Follow all instructions given, complete in their entirety all templates, and provide all data reports necessary for the completion of the Medicaid cost report in an accurate and timely manner.
- Accurately maintain separate clinical programmatic cost accounts that can be easily reviewed and audited.
- Report all clinical service activity in the billing system and provide reports that identify all clinical services, regardless of payor source, by programmatic activity.
- Maintain a usual and customary charge uniformly applied to all patients, regardless of payor source.
- Work with NCAPHA staff or consultant to address errors in data and to correct the data in a timely manner.
- Assure that NCAPHA staff or consultant is aware of any problems within the recordkeeping system that would cause data to be inaccurate.
- Timely pay all annual assessed fees for cost reporting and settlement completion services provided by NCAPHA.
- Review all cost reports/settlement reports for accuracy and completeness in a timely manner.
- Use appropriate methods to protect the confidentiality of patient protected health information when transmitting it to NCAPHA.

**3. HIPAA Privacy Rules:** The Parties intend that patient protected health information will be exchanged in a secure manner, and that such protected health information will be used for payment and health care operations purposes pursuant to N.C.G.S. § 90-21.20B(e) and 45 C.F.R. § 164.506(c). The Parties agree to comply with all HIPAA privacy and security rules as reflected in attached the Business Associate Agreement.

**4. Fees:** LHDs will be charged a fee for the Medicaid consulting services provided by NCAPHA. The fees are determined by using a tiered fee schedule based on population data. The current fee schedule is set forth below. Invoices will be sent on or before July 1 and payment is due upon receipt.

| Population  | Fee      |
|-------------|----------|
| 0 - 50k     | \$ 2,200 |
| 50k - 100k  | 2,750    |
| 100k - 150k | 3,025    |
| 150k - 200k | 3,300    |
| 200k        | 3,575    |
| 300k        | 3,850    |
| 500k        | 4,125    |
| > 1 mil     | 4,400    |

**5. Termination:** This Agreement can be terminated by either party at any time. If either party cancels the Agreement, fees will be refunded on a prorated basis as if the fee was earned evenly throughout the fiscal year; unless all or substantially all of the cost report work is done, in which case no fees will be refunded.

6. Liability: The LHD understands that by signing the annual attestation letter required by CMS, the LHD attests to the accuracy of the completed cost report schedules and is financially responsible for the information and any amounts due. The LHD will be held financially responsible for any misrepresentation of the data and cost being reported. NCAPHA will not be responsible for errors in the LHD's data or records that may result in incorrect cost reports. The LHD and NCAPHA will each be responsible for any failure to fulfill its respective obligations under this Agreement.

7. Entire Agreement: This Agreement and the attached Business Associate Agreement contain the entire understanding between the Parties and shall not be altered, amended, modified, or assigned, except by an agreement in writing executed by duly authorized officials of both Parties. The Parties expressly acknowledge that all prior agreements and understandings relating to the subject matter of the Agreement and all prior written agreements between the Parties are hereby superseded by the terms and conditions of this Agreement. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of North Carolina.

8. Third Party Beneficiaries: No section of this Agreement is intended to create, nor should be construed as creating, any third party beneficiaries' rights under this Agreement.

*I hereby agree to the terms as stated in this Agreement and certify that I have the authority to execute this Agreement on behalf of my organization as shown below.*

Local Health Department

Jim D. Harrel Lisa L. Hughes  
Printed Name: Jim D. Harrel Lisa L. Hughes  
Title: HSA Director County Manager  
Date: 6/14/17

N.C. Alliance of Public Health Agencies, Inc.

Lynette Tolson  
Printed Name: Lynette Tolson  
Title: Executive Director  
Date: 6/14/17

**NC ALLIANCE OF PUBLIC HEALTH AGENCIES, INC.**  
**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (the "Agreement") is made effective the 1<sup>st</sup> day of July, 2017,  
by \_\_\_\_\_ and \_\_\_\_\_ between  
Yadkin County Human Services Agency and the North Carolina Alliance of Public Health  
Agencies, Inc. ("Business Associate") (individually, a "Party" and collectively the "Parties").

**1. BACKGROUND**

- a. Covered Entity and Business Associate are parties to a Memorandum of Understanding (the "MOU"), whereby Business Associate agrees to perform certain services for or on behalf of Covered Entity that require Business Associate to create, receive, maintain, or transmit Protected Health Information on Covered Entity's behalf, and accordingly Business Associate may be considered a "business associate" of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA Privacy and Security Rules") (45 C.F.R. Parts 160 and 164).
- b. Covered Entity is a local health department in the State of North Carolina that has been designated in whole or in part as a covered entity for purposes of the HIPAA Privacy and Security Rules.
- c. The Parties enter into this Business Associate Agreement with the intention of complying with the HIPAA Privacy and Security Rule provision that a covered entity may disclose protected health information to a business associate, and may allow a business associate to create or receive protected health information on its behalf, if the covered entity obtains satisfactory assurances that the business associate will appropriately safeguard the information.

**2. DEFINITIONS**

Unless some other meaning is clearly indicated by the context, the following terms shall have the following meaning in this Agreement:

- a. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103.
- b. "HIPAA" means the Administrative Simplification Provisions, Sections 261 through 264, of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as modified and amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.
- c. "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

- d. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- e. "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- f. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or the person to whom the authority involved has been delegated.

Unless otherwise defined in this Agreement, terms used herein shall have the same meaning as those terms have in the HIPAA Privacy and Security Rules. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Privacy and Security Rules, as amended, the HIPAA Privacy and Security Rules in effect at the time shall control. Where provisions of this Agreement are different than those mandated by the HIPAA Privacy and Security Rules, but are nonetheless permitted by the HIPAA Privacy and Security Rules, the provisions of this Agreement shall control.

### **3. OBLIGATIONS OF BUSINESS ASSOCIATE**

- a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the MOU and this Agreement or as Required by Law.
- b. Business Associate agrees to use appropriate safeguards and comply, where applicable, with subpart C of 45 C.F.R. Part 164 with respect to electronic protected health information, to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- d. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware, including breaches of unsecured protected health information as required by 45 C.F.R. § 164.410.
  - 1) Following the discovery of a Breach, Business Associate shall notify Covered Entity of such Breach without unreasonable delay and in no case later than fifteen (15) calendar days after discovery of the breach, and shall assist in Covered Entity's breach analysis process, including risk assessment, if requested.
  - 2) Notwithstanding the above, if a law enforcement official states to Business Associate that notification of a Breach would impede a criminal investigation or cause damage to national security, then Business Associate shall delay the notification for the time period specified in writing by the law enforcement official or, if the statement is made orally, Business Associate shall document the statement and delay notification for no

longer than thirty (30) days from the date of the oral statement unless the official submits a written statement during that time

- 3) The Breach notification shall be provided to Covered Entity in the manner specified in 45 C.F.R. § 164.410(c) and shall include the information set forth therein to the extent known. If, following the Breach notification, Business Associate learns additional details about the Breach, Business Associate shall notify Covered Entity promptly as such information becomes available.
  - e. Business Associate agrees, in accordance with 45 C.F.R. § 164.502(e)(1) and § 164.308(b)(2), to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of Business Associate agree to the same restrictions and conditions that apply to Business Associate with respect to such information.
  - f. If Business Associate maintains a designated record set on behalf of Covered entity, at the request of Covered Entity and in a reasonable time and manner, Business Associate agrees to make available protected health information as necessary to satisfy Covered Entity's obligations in accordance with 45 C.F.R. § 164.524.
  - g. If Business Associate maintains a designated record set on behalf of Covered entity, at the request of Covered Entity and in a reasonable time and manner, Business Associate agrees to make available Protected Health Information for amendment and incorporate any amendment(s) to Protected Health Information in accordance with 45 C.F.R. § 164.526.
  - h. Unless otherwise prohibited by law, Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
  - i. Business Associate agrees to make available the information required to provide an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
  - j. Unless expressly authorized in the MOU, Business Associate shall not use Protected Health Information for marketing or fundraising; use Protected Health Information to create a limited data set; or use or disclose Protected Health Information in exchange for remuneration of any kind, whether directly or indirectly, financial or non-financial, other than such remuneration as Business Associate receives from Covered Entity in exchange for Business Associate's provision of the services specified in the MOU.

#### **4. PERMITTED USES AND DISCLOSURES**

- a. Except as otherwise limited in this Agreement or by other applicable law or agreement, if the MOU permits, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the MOU, provided that such use or disclosure:

- 1) would not violate the Privacy Rule if done by Covered Entity; or
- 2) would not violate the minimum necessary policies and procedures of the Covered Entity.

- b. Except as otherwise limited in this Agreement or by other applicable law or agreements, Business Associate may use or disclose Protected Health Information for the proper management and administration of the Business Associate or to carry out the present or future legal responsibilities of the Business Associate.
- c. Except as otherwise limited in this Agreement or by other applicable law or agreements, if the MOU permits, Business Associate may use Protected Health Information to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- d. Notwithstanding the foregoing provisions, Business Associate may not use or disclose Protected Health Information if the use or disclosure would violate any term of the MOU or other applicable law or agreements.

## **5. OBLIGATIONS OF COVERED ENTITY**

- a. Upon request of Business Associate, Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. § 164.520.
- b. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose Protected Health Information, if such changes could reasonably be expected to affect Business Associate's permitted or required uses and disclosures.
- c. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of Protected Health Information to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522, and Covered Entity shall inform Business Associate of the termination of any such restriction, and the effect that such termination shall have, if any, upon Business Associate's use and disclosure of such Protected Health Information.

## **6. TERM AND TERMINATION**

- a. **Term.** This Agreement shall be effective as of the effective date stated above and shall terminate when the MOU terminates.
- b. **Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity may, at its option:
  - 1) Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement and services provided by Business Associate, to the extent permissible by law; if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

- 2) Immediately terminate this Agreement and services provided by Business Associate, to the extent permissible by law; or
- 3) If neither termination nor cure is feasible, report the violation to the Secretary as provided in the Privacy Rule.

c. **Effect of Termination.**

- 1) Except as provided in paragraph (2) of this section, in the MOU, or by other applicable law or agreements, upon termination of this Agreement and services provided by Business Associate for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- 2) In the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction not feasible. Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

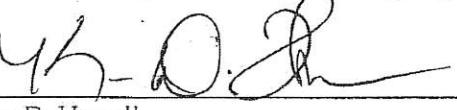
**7. GENERAL TERMS AND CONDITIONS**

- a. This Agreement amends and is part of the MOU.
- b. Except as provided in this Agreement, all terms and conditions of the MOU shall remain in force and shall apply to this Agreement as if set forth fully herein.
- c. In the event of a conflict in terms between this Agreement and the MOU, the interpretation that is in accordance with the Privacy Rule shall prevail. In the event that a conflict then remains, the MOU terms shall prevail so long as they are in accordance with the Privacy Rule.
- d. A breach of this Agreement by Business Associate shall be considered sufficient basis for Covered Entity to terminate the MOU for cause.
- e. The obligations of Business Associate under Section 6.c of this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the MOU, and/or the business relationship of the Parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.
- f. The Parties agree that this Agreement will be amended automatically to conform to any changes in the HIPAA Privacy and Security Rules as are necessary for each of them to comply with the current requirements of the HIPAA Privacy and Security Rules and the

Health Insurance Portability and Accountability Act, unless a particular statutory or regulatory provision requires that the terms of this Agreement be amended to reflect any such change.

- g. None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. Nothing in this Agreement creates or is intended to create an agency relationship.
- h. Any ambiguity of this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with the HIPAA Privacy and Security Rules.
- i. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

Yadkin County Human Services Agency (Covered Entity)

  6/14/17  
Kim D. Harrell,  
Health Director

Date

NC Alliance of Public Health Agencies, Inc. (Business Associate)

Lynette Tolson 6/14/17  
Lynette Tolson, Executive Director

Date

RFP Number (if applicable): \_\_\_\_\_

Name of Vendor or Bidder: North Carolina Alliance of Public Health Agencies

**IRAN DIVESTMENT ACT CERTIFICATION  
REQUIRED BY N.C.G.S. 143C-6A-5(a)**

As of the date listed below, the vendor or bidder listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4.

The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed above to make the foregoing statement.

Joanne Brasington  
Signature

6/14/17  
Date

Joanne Brassington  
Printed Name

HR Director  
Title

**Notes to persons signing this form:**

N.C.G.S. 143C-6A-5(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the vendor made its bid)
- When a contract is renewed or assigned

N.C.G.S. 143C-6A-5(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address [www.nc treasurer.com/iran](http://www.nc treasurer.com/iran) and will be updated every 180 days.