



**BlueCross BlueShield
of North Carolina**

An Independent Licensee of the
Blue Cross and Blue Shield Association

**Blue Cross and Blue Shield of North Carolina
Trading Partner Agreement**

This Agreement, effective as of _____, 200_ (the “Effective Date”), is made between _____, (“Trading Partner”) and Blue Cross and Blue Shield of North Carolina, an independent licensee of the Blue Cross and Blue Shield Association (“BCBSNC”).

Recitals:

This Agreement provides the terms and conditions governing electronic transfers of data communications between BCBSNC and Trading Partner (each, a “Party” and collectively the “Parties”) whether by direct digital, electronic transmission over communication lines, or any other electronic means in relation to health care transactions.

BCBSNC provides benefit payments on behalf of Members covered under health benefit programs and engages in the electronic transfer of data between payors, providers, vendors, group health plans and plan sponsors.

Each Party is or will be equipped at its own expense with an Operating System and the trained personnel necessary to engage in the successful exchange of electronic data.

The Parties are entering into this Agreement to facilitate, through transmission via electronic formats consistent with or otherwise allowed by the Transaction Rules, the submission and processing of healthcare transactions.

The Parties desire to protect the confidentiality and integrity of the Protected Health Information exchanged between the Parties and to prevent inappropriate disclosure of information.

BCBSNC anticipates that Trading Partner may, in the performance of this Agreement, be conducting health care transactions on behalf of a covered entity.

1. Definitions.

The following are general definitions that apply to this Agreement, and will be construed consistent with applicable law. Terms not specifically defined in this Agreement will be defined as set forth in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), BCBSNC policies, procedures, benefit plan materials, or other written materials, if applicable.

“**Companion Guide**” means the guide issued by BCBSNC that provides Trading Partner with guidelines for submitting electronic transactions. The Companion Guide documents assumptions, conventions, and other data issues that may be specific to BCBSNC business processes when implementing the HIPAA ASC X12N Implementation Guides. The Companion Guide neither

replaces the HIPAA ASC X12N Implementation Guides for transaction sets, nor attempts to amend any of the rules therein or impose any mandates on Trading Partner.

“Electronic Data Interchange (EDI)” means the automated exchange of business documents from application to application in the formats required or allowed by the Transaction Rules.

“Envelope” means a control structure in a format mutually agreeable to BCBSNC and Trading Partner for the electronic interchange of one or more encoded data transmissions between BCBSNC and Trading Partner.

“Lost or Indecipherable Transmission” means a data transmission that is not received or cannot be processed to completion by the receiving Party because it is garbled or incomplete, regardless of how or why the data transmission was rendered garbled or incomplete.

“Member” means an individual 1) who is a past or present participant in any health insurance plan offered by BCBSNC or another Blue Cross and/or Blue Shield plan or its direct or indirect corporate parent, subsidiary, or affiliate; 2) who has submitted an application to participate in any health insurance plan offered by BCBSNC or another Blue Cross and/or Blue Shield plan or its direct or indirect corporate parent, subsidiary, or affiliate; or 3) who is entitled to benefits under a self-funded (“ASO”) health plan that is administered by BCBSNC or another Blue Cross and/or Blue Shield plan or its direct or indirect corporate parent, subsidiary, or affiliate.

“National Standard Identifier” or **“NSI”** means the standard unique health identifier for each Member, employer, health plan and provider for use in the health care system pursuant to regulations implementing HIPAA.

“Operating System” means the equipment and software necessary for a successful data transmission made pursuant to this Agreement.

“Proprietary Information” means information used or created by the Parties in the conduct of their business activities that is not normally made available to the Parties’ customers, competitors or third parties, the disclosure of which will or may impair the Parties’ competitive position or otherwise prejudice the Parties’ ongoing business.

“Protected Health Information” or **“PHI”** is a term used to describe, collectively, the information subject to privacy and security protections under applicable state and federal laws, including the requirements of HIPAA, and its implementing privacy regulations, and the requirements related to privacy at Article 39, Chapter 58, of the North Carolina General Statutes, including the North Carolina Insurance Information and Privacy Protection Act. Generally, “Protected Health Information” or “PHI”, means individually identifiable health information that is transmitted or maintained in electronic, paper, or any other media, including demographic information collected from an individual (name, address, and other demographic information), that: (i) is created or received by a health care provider, health plan, employer, or clearinghouse; (ii) relates to the past, present, or future physical or mental health condition of an individual, as well as the provision of health care to an individual or the past, present, or future payment for the provision of health care to

an individual; and (iii) identifies the individual or as to which there is a reasonable basis to believe that the information can be used to identify the individual. In determining whether information identifies the individual or whether the information has been “de-identified”, the Parties shall refer to 45 C.F.R. Section 164.514 (b)(2)(i) for identifiers that must be removed in order for information to be de-identified. Information that BCBSNC transmits or maintains in electronic, paper or any other media that is unrelated to one of its functions as a covered entity is not considered PHI (e.g. PHI maintained for employment purposes).

“Security Access Codes” means codes that BCBSNC assigns to Trading Partner to allow Trading Partner access to BCBSNC Operating System for the purpose of successfully executing data transmissions or otherwise carrying out this Agreement.

“Source Documents” mean documents containing data that are or may be required as part of a data transmission concerning (i) a claim for payment of charges for medical services that a provider furnishes to a Member or (ii) Member enrollment. Source Documents are subject to the security standards of this Agreement. Examples of data contained within a Source Document include, without limitation, Member’s name, address and identification number, claim number, diagnosis codes or descriptions for the services rendered, dates of service, service procedure codes or descriptions, applicable charges for the services rendered, the provider’s name and/or NSI, dependent information, and signature.

“Stakeholder Registration Process” means the identification and documentation by the Trading Partner of entities for whom Trading Partner will submit standardized transactions to BCBSNC.

“Testing” means the process whereby BCBSNC validates the data content and format compliance of transaction sets sent to BCBSNC by Trading Partner, the stability of electronic connections to support data transfer, and the security configuration of data transfer.

“Transaction Rules” means Social Security Act § 1173 and the Standards for Electronic Transactions, 45 C.F.R. Parts 160 and 162, as may be amended or recodified from time to time.

2. Obligations of the Parties.

2.1 Companion Guide. Trading Partner agrees that it shall comply with the connectivity, transmission, security and other requirements set forth in the Companion Guide, which is hereby incorporated into this Agreement as if fully set forth herein. The Companion Guide is available on the Internet at www.bcbsnc.com/providers/edi/. Unless otherwise required by changes in applicable law, Trading Partner agrees that BCBSNC may amend the Companion guide at its sole discretion by updating it on the Internet website, provided that BCBSNC must post the change on the website no fewer than 90 days prior to the effective date of the change. The Parties agree that in the event of a conflict between the Companion Guide and the terms of this Agreement, the conflicting terms shall be construed to be consistent to the extent reasonably possible; if it is not reasonably possible to construe such conflicting terms consistently, the terms of this Agreement shall prevail.

2.2 Governing Principles. Notwithstanding Section 2.1 or any other provision of this Agreement or the Companion Guide to the contrary, the Parties agree that in keeping with 45 C.F.R. 162.915 (or successor regulation), neither this Agreement nor the Companion Guide shall be construed to permit Trading Partner or BCBSNC to: (a) change the definition, data condition, or use of a data element or segment in a standard, (b) add any data elements or segments to the maximum defined data set, (c) use any code or data elements that are either marked “not used” in the standard’s implementation specification or are not in the standard’s implementation specification(s), or (d) change the meaning or intent of the standard’s implementation specifications.

2.3 Limited Purpose. Trading Partner acknowledges that access to and use of information, including but not limited to PHI, allowed under this Agreement is limited to the purpose of treatment, payment and healthcare operations as such terms are defined by HIPAA.

2.4 Data Transmission Accuracy and Security. The Parties will take reasonable care to ensure that data transmissions are timely, complete, accurate, and secure. Each Party will employ accuracy and security measures necessary to protect and successfully transmit data between them, in compliance with the Transaction Rules and any Department of Health and Human Services (DHHS) implementing regulations or guidelines and as set forth in Section 3 of this Agreement. The Parties assume all risks and liabilities for their data transmissions, including but not limited to, those associated with a rejection of a data transmission due to a failure to comply with this section. Repeated violations with regard to security and accuracy requirements may result in the termination of this Agreement pursuant to Section 7.

2.5 Retransmission of Lost or Indecipherable Transmissions. Trading Partner will retransmit Lost or Indecipherable Transmissions pursuant to instructions provided in the Companion Guide. BCBSNC shall use best efforts to provide notice to Trading Partner if it has knowledge of Lost or Indecipherable Transmissions as articulated in the Companion Guide.

2.6 Formats. The Parties shall utilize the code sets, data elements, and formats for data transmissions defined by the Transaction Rules and, subject to Section 2.1 and 2.2, shall also follow the requirements set forth in the Companion Guide.

2.7 Testing. Each Party will reasonably cooperate with the other Party in validating the security, connectivity, and formatting of the data transmissions prior to acceptance into BCBSNC HIPAA production status, as outlined in the Companion Guide.

2.8 National Standard Identifiers (NSIs). BCBSNC and Trading Partner will use NSIs in all data and data transmissions conducted between the Parties at the earlier of (i) the date that BCBSNC will be in compliance with any NSI adopted by DHHS through regulations implementing HIPAA, or (ii) the date mandated in the text of any regulations implementing HIPAA. When the date of BCBSNC compliance precedes the date mandated by the applicable law, the BCBSNC compliance date shall be posted at the following site: www.bcbsnc.com/providers/edi.

2.9 Security Access Codes. The Security Access Codes that BCBSNC issues to Trading Partner will, when affixed to data transmissions, be legally sufficient to verify the identity of the transmitter

and to authenticate the data transmission, thereby establishing the data transmission's validity. Data transmissions having a Security Access Code affixed to them will be deemed to have been "written" or "signed" by the sender. Computer printouts of the information contained in such correspondence and documents that have been electronically or magnetically recorded and kept in the normal course of the sender's or receiver's business will be considered original business records admissible in any judicial, arbitration, mediation or administrative proceedings to the same extent and under the same conditions as other business records originated and maintained in documentary form.

2.10 Trading Partner Obligations. Trading Partner will:

2.10.1 Access information, including but not limited to PHI, concerning services provided to Members by (i) Trading Partner and its employed providers, (ii) providers who are owners of Trading Partner, or (iii) providers who have contracted with Trading Partner for EDI services.

2.10.2 Not copy, reverse engineer, disclose, publish, distribute, de-identify, alter or use data, data transmission or Envelopes for any purpose other than for which BCBSNC has specifically authorized Trading Partner under the terms of this Agreement.

2.10.3 Not obtain or attempt to obtain access by any means to data, data transmissions, Envelopes, or BCBSNC's Operating System for any purpose other than as BCBSNC has specifically granted Trading Partner access under this Agreement. In the event that Trading Partner receives data or data transmissions from BCBSNC not intended for Trading Partner, Trading Partner will immediately notify BCBSNC and destroy the data.

2.10.4 At its own expense, obtain and maintain its own Operating System necessary for timely, complete, accurate and secure transmission of data pursuant to this Agreement. Furthermore, Trading Partner shall pay its own costs for any and all charges related to data transmission under this Agreement and specifically including, without limitation, charges for operating system equipment, software and services, maintaining an electronic mailbox, connection time, terminals, connections, telephones, modems, and any applicable minimum use charges.

2.10.5 Protect and maintain the confidentiality of Security Access Codes that BCBSNC issues to Trading Partner from unauthorized access. The Trading Partner must notify BCBSNC immediately whenever they have reason to believe that Access Codes issued by BCBSNC have been compromised or disclosed to unauthorized persons including but not limited to former Trading Partner employees.

2.10.6 Provide BCBSNC in writing all information requested in the applicable Electronic Connectivity Request forms located at www.bcbsnc.com/providers/edi not later than Trading Partner's execution of this Agreement. While this Agreement is in effect, Trading Partner will notify BCBSNC in writing within five (5) business days of any material change in the information provided on the Connectivity Request forms.

2.11 BCBSNC Obligations. BCBSNC will:

2.11.1 Make available to Trading Partner, via electronic means, data and data transmissions for which this Agreement grants Trading Partner access or authorization, or as provided by law.

2.11.2 Provide Trading Partner with Security Access Codes that will allow Trading Partner access to BCBSNC Operating System. The Parties acknowledge and agree that such Security Access Codes are confidential and subject, without limitation, to the restrictions contained in Article 3 of this Agreement. BCBSNC reserves the right to change Security Access Codes at any time and in such manner as BCBSNC, in its sole discretion, deems necessary. The Parties agree that disclosure of Security Access Codes will be limited to authorized personnel of the respective Parties on a need-to-know basis.

2.11.3 Provide one-time training for those Trading Partner personnel who are initially authorized to access information from the BCBSNC Operating System.

3. Confidentiality and Security.

3.1 **Data Security.** Each Party will maintain reasonable security procedures to prevent unauthorized access to data, data transmissions, Security Access Codes, Envelope, backup files, Source Documents or the other Party's Operating System which attempt may have an impact on the other Party. Such security procedures shall include maintaining a record of authorized personnel with the date access is granted and terminated which shall be made available to the other Party upon request.

3.1.1 **Protected Health Information.** Each Party will comply with all applicable privacy and security laws and regulations concerning the use and disclosure of Protected Health Information, including, but not limited to, the requirements of HIPAA and its implementing privacy regulations at 45 C.F.R. Parts 160-164, and its implementing security regulations at 45 C.F.R. Part 142; and state privacy and security laws and regulations, including those set forth in Article 39 of Chapter 58 of the North Carolina General Statutes, including the North Carolina Insurance Information Privacy and Protection Act.

3.1.2 **Proprietary Information.** Each Party will treat the other Parties' information obtained or learned in connection with this Agreement as confidential and will not use the other Parties' Proprietary Information for their own commercial benefit or any other purpose not authorized in this Agreement. Each Party will safeguard the other Parties' Proprietary Information against unauthorized disclosure and use.

3.1.3 **Access.** Each Party agrees that only its authorized employees will be granted access to data, data transmissions, Security Access Codes, Envelope, backup files, Source Documents or the other Party's Operating System and that this access and any information obtained through this access is not transferable to any outside person or entity, including but not limited to vendors, clearinghouses, and business associates, unless agreed to by BCBSNC through the EDI stakeholder registration process.

4. Security.

4.1 **Chain of Trust Agreement.** Trading Partner and BCBSNC agree to protect the information electronically transmitted between them and shall cooperate with each other to maintain the integrity and confidentiality of such information and to provide all reasonable protection to prevent unauthorized disclosure of such information. Both parties agree that they bear responsibility for protecting the integrity and confidentiality of information once it has passed to equipment owned or operated by or on behalf of the party.

4.2 **Suspension of Network Connectivity.** The parties agree that in the event of any incidents that BCBSNC determines in good faith present an unacceptably high risk to the BCBSNC information systems infrastructure (including, but not limited to all BCBSNC data and information), BCBSNC shall notify, and have the right to suspend immediately, the affected Trading Partner to BCBSNC network connectivity until BCBSNC determines that the risk has been acceptably mitigated at which time, reasonable efforts will be taken to re-instate the connection in a timely manner. Trading Partner agrees that in the event that connectivity is suspended, BCBSNC will not be liable for any losses resulting from losing access to network connectivity.

5. Record Retention and Audit.

5.1 **Records Retention.** Each party will maintain complete, accurate and unaltered copies of all Source Documents, including backup files, electronic tapes or other sufficient means to recreate the data, from all data transmissions it receives from the other for not less than six (6) years from the date that they are received. All retained records will be subject to the provisions of this Agreement, including but not limited to, the security measures as data and data transmissions.

5.2 **Certification.** If either party reasonably believes that the other party has a practice or procedure that may violate applicable law or the terms of this Agreement, such inquiring party may request, and the other party agrees to promptly provide, written certification either confirming compliance with the applicable laws or terms, or outlining the areas of noncompliance and describing a plan of action to come into compliance.

5.3 **Cooperation in Outside Audits.** Each party agrees to cooperate with the DHHS, the North Carolina Department of Insurance (NCDOI), the National Committee for Quality Assurance (NCQA), the Joint Commission on Accreditation of Health Care Organizations (JCAHO), and other regulatory and accreditation agencies, concerning their reviews or audits of the other party. Each party will notify the other immediately upon such party's receipt of any request from a government authority for information or documents relating to this Agreement, except to the extent such notification is prohibited by law.

6. Representations and Warranties.

6.1 **Government Programs.** Each Party represents and warrants that:

6.1.1 Some of the information that can be accessed by Trading Partner may have been provided by the Federal Medicare Program for use in the payment of Medicare supplementary or complimentary benefits. Medicare customer and claims information is subject to the provisions of the Freedom of Information Act. Trading Partner agrees that such information will be used only for authorized Medicare program purposes and will not be further disclosed. In accordance with the Privacy Act of 1974, as amended, Trading Partner agrees to meet the required conditions for system security safeguards. Trading Partner agrees that such information furnished to and/or received by you under this agreement will be used only in connection with the determination of eligibility and payments of Medicare benefits. Trading Partner agrees to limit access to the information to only those who need it to perform their duties in connection with the authorized use; to store and process the magnetic tapes, Medicare claims information, and/or electronic eligibility files in such a manner that unauthorized persons cannot retrieve the information by means of computer, remote terminals or other means; and to advise all personnel who will have access to the data of the confidential nature of the information, the safeguards required and the criminal penalties for noncompliance contained in section 1106(a) of the Social Security Act (42 U.S.C., Section 1306(a)) and the Privacy Act of 1974, as amended (5 U.S.C., Section 552a(i)(3)). Trading Partner agrees that it shall be liable for any and all breaches of this paragraph that may be committed by any of its partners, directors, officers, employees, servants, agents, or subcontractors (including billing services or data transmission services.)

6.1.2 Neither the United States government, any state or local government, nor any prime contractor, subcontractor or other person has notified the Parties, either orally or in writing, that the Parties have breached or violated any law, certification, representation, clause, provision or requirement pertaining to or involving any government contract or government subcontract that has resulted or may result in the Parties being charged with a criminal offense;

6.1.3 No termination for convenience, termination for default, cure notice or show cause notice is currently in effect or threatened against the Parties by the United States government or any state or local government;

6.1.4 To the best of each Party's knowledge, neither Party nor any of its directors, officers, employees or entities with whom the Parties contract are or have been under criminal investigation or indictment by any government entity;

6.1.5 The Parties have not been debarred or suspended from participation in the award of contracts with any government entity (excluding for this purpose ineligibility to bid on certain contracts due to generally applicable bidding requirements);

6.1.6 To the best of each Party's knowledge, there exists no fact or circumstance that would warrant the institution of suspension or debarment proceedings or the finding of nonresponsibility or ineligibility on the part of the Parties or any director, officer or employee of the Parties; and

6.1.7 No payment has been made by the Parties' or by any person on behalf of either Party in connection with any government contract or government subcontract in violation of or requiring disclosure pursuant to the Foreign Corrupt Practices Act, as amended (15 U.S.C. §§ 78dd-1,

78dd-2).

6.2 Notice of Violations. Each Party will notify the other Party in writing within ten (10) business days of obtaining knowledge of any criminal investigation, indictment, information or charge by any governmental entity (or communications indicating that the same may be contemplated) related to the other Party or any of the other Parties' directors, officers, employees, vendors, agent, or entities with whom the Parties contract.

6.3 Verification of Eligibility. The Parties agree that the verification of an individual's eligibility provided by BCBSNC is only an indication of the enrollment status and benefits at the time of inquiry. Payment of services is contingent upon the confirmation of status at the time of claims processing and upon the terms and conditions of the participant's certificate as determined by BCBSNC. BCBSNC shall have no liability for payment of benefits shown on the BCBSNC Operating System. Benefits and terms of coverage are only as they exist in the current participant contract as determined by BCBSNC. Similarly, payment for services provided to the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plans members, the North Carolina Health Choice for Children recipients, and the North Carolina Special Programs recipients, is contingent upon confirmation of eligibility at the time the claim is processed by the State of North Carolina. BCBSNC is in no way responsible for and will not modify any information received from the State of North Carolina pursuant to any of these programs.

7. Term and Termination.

7.1 Term. The term of this Agreement shall be for one year from the Effective Date, at which time it will automatically renew for successive periods of one (1) year unless otherwise terminated in accordance with this Agreement.

7.2 Voluntary Termination. Either Party may terminate this Agreement without requirement of cause with no fewer than thirty (30) days prior written notice to the other.

7.3 Termination for Governmental Action. Either party will have the right to terminate this Agreement immediately upon written notice to the other Party if, during the term of this Agreement, either Party, any of its related business entities or any of its officers, directors, managing employees or entities with whom the Party contracts is:

7.3.1 charged with a criminal offense relating to one or more government contracts or government subcontracts or to federal health care programs (as defined in Social Security Act § 1128B(f));

7.3.2 listed by a federal agency as debarred, proposed for debarment, or suspended; or

7.3.3 otherwise excluded from federal program participation, including exclusion from participation in a federal health care program (as defined in the Social Security Act § 1128B(f)).

7.4 **Termination for Undue Risk.** In the event that BCBSNC determines that Trading Partner has breached the terms of this Agreement, including any violation of section 3, and that an undue risk to BCBSNC or its Members is created by such breach or by the ongoing effectiveness of this Agreement, BCBSNC may terminate this Agreement immediately upon written notice to Trading Partner.

7.5 **Termination for Cause.** Either Party may terminate this Agreement for cause upon written notice of a material breach and failure to cure within ten (10) business days of such notice.

8. Indemnification. Each Party to this Agreement shall indemnify, defend and hold the other Party harmless from any and all claims, actions, damages, liabilities, costs and expenses (specifically including, without limitation, reasonable attorney’s fees and costs) arising out of any negligent acts or omissions of the Indemnifying Party or its respective employees, subcontractors or agents in the performance of this Agreement.

9. Miscellaneous.

9.1 **Notices.** Any notice pertaining to the conditions in this Agreement will be in writing. Notice will be deemed given by either Party when personally delivered to the other Party’s authorized representative listed below, or sent by means of reputable overnight courier or by U.S. mail, postage prepaid. Or, BCBSNC may instead choose to give notice to Trading Partner by posting such notice on its internet-based Companion Guide, along with an e-mail to Trading Partner alerting Trading Partner to such change and providing a link to such change. A notice sent by overnight courier or by U.S. mail will be deemed given on the date of receipt or refusal of receipt with respect to overnight courier, and three days after the date of mailing with respect to U.S. mail. All notices will addressed to the appropriate Party as follows:

To: Blue Cross and Blue Shield of North Carolina (BCBSNC)
5901 Chapel Hill Road
Durham, NC 27707-0718

Attn: Janet Jackson, Director, Electronic Solutions

To: _____
(Trading Partner)

(Address)

(City, State, Zip Code)

Attn: _____

(Title)

(e-mail address)

9.2 **Amendments.** Other than as set forth in 2.1, this Agreement may not be changed or modified except by an instrument in writing signed by each Party's authorized representative.

9.3 **Construction.** This Agreement will be construed to comply with any final regulation or amendment to a final regulation adopted by DHHS concerning the subject matter of this Agreement upon the effective date of the final regulation or amendment.

9.4 **Choice of Law and Venue.** This Agreement and the Parties' rights and obligations hereunder are governed by and will be construed under the laws of the State of North Carolina. The venue for any cause of action shall be Durham or Orange County, North Carolina.

9.5 **Dispute Resolution.** The Parties will work together in good faith for a reasonable period to resolve any dispute or alleged breach of this Agreement prior to resorting to litigation. This provision does not apply to actions by either Party that are the subject of immediate termination under this Agreement or to disputes involving fraud or breach of the requirements of Section 3 of this Agreement, in which case a Party will be free to seek available remedies in any appropriate forum at any time.

9.6 **Assignment, Delegation, and Applicability to Affiliates.** This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and assigns. BCBSNC retains the right to assign, delegate, or extend any of its rights or obligations hereunder in whole or in part, to any BCBSNC subsidiaries, affiliates, or joint venturers; BCBSNC successor entity, parent, subsidiaries, affiliates and/or any entity renamed, created or acquired as a result of a corporate reorganization, merger or acquisition, as designated by BCBSNC; or to any successor in interest of its EDI functions with written notice to Trading Partner. Otherwise, neither Party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other Party.

9.7 **Relationship of BCBSNC to Blue Cross and Blue Shield Association.** This Agreement constitutes a contract between Trading Partner and BCBSNC. BCBSNC is an independent company operating under a license with the Blue Cross Blue Shield Association ("Association"), an association of independent Blue Cross Blue Shield plans, permitting BCBSNC to use the Blue Cross and Blue Shield service marks in North Carolina. BCBSNC is not contracting as the agent of the Association. Trading Partner has not entered into this Agreement based upon representations by any person other than BCBSNC, and no person, entity or organization other than BCBSNC will be held accountable or liable to Trading Partner for any of BCBSNC's obligations to Trading Partner under this Agreement.

9.8 **Relationship of BCBSNC and Trading Partner.** BCBSNC and Trading Partner shall be independent contractors for all purposes, including tax purposes, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of either party be construed as an employee, agent or principal of the other.

9.9 **Force Majeure.** Each Party will be excused from performance for any period of time during this Agreement that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control and without its fault or negligence. Such acts include, without limitation, acts of God, strikes, lockouts, riots, acts of war, acts of terrorism epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, earthquakes, floods or other natural disasters. Delays in performance because of the occurrence of such events will automatically extend due dates for a period equal to the duration of such events. Such automatic extension will have no effect on the exercise of either Party's right of voluntary termination of this Agreement.

9.10 **No Waiver.** Failure or delay on the part of either Party to exercise any right, power, privilege or remedy in this Agreement will not constitute a waiver. No provision of this Agreement may be waived by either Party except in a writing signed by an authorized representative of the Party making the waiver.

9.11 **Severability.** The provisions of this Agreement are severable. If any provision of this Agreement is held or declared to be illegal, invalid or unenforceable, the remainder of the Agreement will continue in full force and effect as though the illegal, invalid or unenforceable provision had not been contained in the Agreement.

9.12 **Survival.** The Parties agree that Sections 3.0, 4.0, 5.0 and 7.0 shall survive termination of this Agreement regardless of the causes giving rise to such termination and will supercede any oral or written agreement now existing or hereafter entered into.

9.13 **Entire Agreement.** This Agreement, together with its Exhibits, and Amendments, constitutes the entire understanding between BCBSNC and Trading Partner for the access to the BCBSNC Operating System and the services and functions addressed in this Agreement and supersedes and cancels all previous written or oral understandings, agreements, negotiations, commitments, and any other writing and communication by or between the Parties. Notwithstanding the foregoing, any pre-existing *Blue e* Interactive Network Agreement shall remain in full force and effect in accordance with its terms.

10. Signatures. The Parties will be bound by all the terms, provisions and conditions of this Agreement upon execution of the Agreement by each Party's duly authorized representative.

Trading Partner

Blue Cross and Blue Shield of North Carolina

By: _____

By: _____

Name Printed: _____

Name: _____

Title: _____

Title: _____

Tax ID#: _____

Address: _____

City, State, Zip: _____

Date: _____

Date: _____

Contact Person: _____

Contact Person: _____

Title: _____

Title: _____

Telephone () _____

Telephone () _____

PLEASE NOTE: Trading Partner must complete and return this Trading Partner Agreement and the applicable Electronic Connectivity Request forms contained at www.bcbsnc.com/providers/edi in order to begin the electronic transfer of data with BCBSNC.