

**NEBRASKA DENTAL ASSOCIATION HEALTH INSURANCE ALLIANCE
MEMBERSHIP AGREEMENT**

Employer _____ **Primary Employer Contact** _____
Address _____ **City, State, Zip** _____
Email _____ **Phone** _____ **EIN** _____

This Agreement is entered into by and between the Nebraska Dental Association Health Insurance Alliance (the "Alliance") and _____ (the "Member"), a Nebraska employer, for participation in the Alliance and the Nebraska Dental Association Member Health Insurance Plan (the "Plan"), for coverage effective January 1, 2023 or other date, as applicable. Membership in the Alliance shall make health insurance coverage available for the Member's eligible employees and dependents who participate under the Plan. In consideration of mutual promises, the undersigned parties agree as follows:

Section 1. Membership. The undersigned employer hereby agrees to become a member of the Alliance (a "Member") upon and subject to the terms and conditions of the Articles of Incorporation of the Alliance, Bylaws of the Alliance, and this Agreement for and during the term of this Agreement.

In order to qualify for membership, the undersigned employer represents that it meets all of the following qualifications:

- (i) Is a Nebraska duly organized and validly existing corporation, limited liability company, partnership, sole proprietorship, or other entity that complies with the laws of the State of Nebraska;
- (ii) Qualifies as an entity which practices dentistry pursuant to Neb. Rev. Stat. § 38-1115 or is The Nebraska Dental Association, which will be treated as being in the same trade or industry as other Members;
- (iii) Constitutes an employer as defined under ERISA § 3(5);
- (iv) Employs in the State of Nebraska at least one common law employee;
- (v) At least fifty percent (50%) of the individuals (A) who have an ownership interest in the entity, (B) who hold a DDS, DMD, or equivalent degree, and (C) who are eligible for membership in The Nebraska Dental Association are members in good standing with The Nebraska Dental Association; and
- (vi) Elects to participate in the Plan and executes a Plan subgroup application.

Section 2. Agreement with Respect to Formation and Existence of the Alliance. The Member acknowledges and agrees that the Alliance is an entity that has been formed by constituent members as a Nebraska nonprofit mutual benefit corporation, and as such, is and shall for all purposes be and remain a body corporate with such powers as are set forth its Articles of Incorporation and Bylaws.

Section 3. Member Obligations. For and during the Term of this Agreement, the Member agrees as follows:

- (i) To maintain its status as a qualified Member under the provisions of Section 1 of this Agreement and to notify the Alliance's Board of Directors as soon as the Member has knowledge that it no longer meets the qualifications under Section 1 of this Agreement;

(ii) To comply with the Articles of Incorporation and Bylaws of the Alliance as the same now exist or may from time to time hereinafter be amended;

(iii) To maintain, and confirm using the form attached as **Exhibit A**, an active membership in good standing in The Nebraska Dental Association for at least fifty percent (50%) of the individuals (A) who hold a DDS, DMD, or equivalent degree, (B) who are eligible for membership in The Nebraska Dental Association, and (C) who have any ownership interest in the Member;

(iv) To maintain an active membership in good standing in The Nebraska Dental Association for each individual holding a DDS, DMD, or equivalent degree who is eligible for membership in The Nebraska Dental Association and who is covered by the Plan;

(v) To provide any and all data, documents, and information, including enrollment and eligibility information, which the Alliance, its agents, or its consultants may from time to time require in order for the Alliance to administer the Plan;

(vi) To comply with the terms and conditions of the Plan as the same may from time to time be amended and modified;

(vii) To cooperate with the Alliance in all matters related to the Alliance's administration of the Plan including, but not limited to, cooperating with any and all Plan audits by the Alliance or the insurer, and completing any and all certifications received by the Member from the Alliance or the insurer for the purpose of verifying a Member's eligibility or a Member's employee's eligibility to participate in the Plan;

(viii) To make payment of premiums and any fees for Plan coverage pursuant to the terms and conditions determined by the insurer for the Plan;

(ix) To notify the insurer timely and accurately within thirty (30) days of any change to the name; address; eligibility for coverage, including, but not limited to, any changes to the eligibility of a Member's employee who fails to satisfy the "actively-at-work" requirement or minimum weekly working hours requirement;¹ or other change to enrollment of the Member, the Member's employee, or the Member's employee's dependent;

(x) To annually sign a subgroup application furnished by the Plan verifying compliance with Plan requirements;

(xi) To distribute Plan documentation in the manner specified by law, the Alliance, and/or the insurer, as applicable, to Participants and Beneficiaries (ERISA requires that a group health plan's covered benefits and limitations, as well as the rights and responsibilities of Participants and Beneficiaries, be explained in the Summary Plan Description (the "SPD"). By signing this Agreement, the Member agrees to distribute the SPD to its Participants within 90 days of when they become covered under the Plan; and within 30 days of a written request from a Participant or Beneficiary or their authorized representative as required by U.S. Department of Labor ("DOL") regulations. Because Plan benefits are fully insured, the SPD will "wrap-around" or be attached to a Certificate of Coverage and Schedule of Benefits, as well as any riders and amendments, issued by the insurer. When SPDs are changed to modify the benefits provided under the Plan, changes must be disclosed to Plan Participants. When this happens, the insurer may either issue a new SPD to the Member or a Summary of Material Modifications ("SMM")

¹ The "actively at work" requirement shall be met under the following three circumstances: (1) the employee is actively performing the customary duties, responsibilities, and obligations of the role which the employee is employed to perform; (2) the employee is on leave under the Family and Medical Leave Act (FMLA), whether paid or unpaid; and/or (3) the employee is on an approved paid leave. The minimum weekly working hours requirement is waived for all periods in which the employee is on FMLA leave, but shall apply in all other circumstances, including periods of approved paid leave. Where an employee is on approved paid leave, to meet the minimum weekly working hours requirement, the employee must have available and use paid leave equal to or in excess of such requirement.

which is a description of the change that must be furnished to Plan Participants. The Member agrees to distribute the new SPD or SMM to its Participants on receipt from the insurer. The Member will also be required to furnish an updated SPD (which will be provided to the Member by the insurer) at least once every five years if there have been any material changes during that period of time. The Member must distribute the updated SPD or SMM in the same manner as the SPD explained above and consistent with DOL regulations. The Member agrees to indemnify the Alliance, the Plan, the insurer and their employees, agents, directors, officers and assigns (collectively, the “Indemnitees”) and to hold each of them harmless from any and all liabilities, claims, penalties, tax assessments or other obligations which may arise, directly or indirectly, from the Member’s failure to comply with its obligations as set forth in this Section 3(xi.);

(xii) To authorize the Alliance to act as the Plan Sponsor and Plan Administrator for the Plan;

(xiii) To comply with all administrative requirements and procedures of the Plan, including, but not limited to, continuation coverage under state or federal law and qualified medical child support orders;

(xiv) To designate, using the form attached as **Exhibit B**, an individual who is the Member’s officer, manager, director, member, or employee as the “Voting Member” authorized to act on the Member’s behalf, and who is entitled to cast the vote for the Member; and

(xv) To be bound by the acts of its designated Voting Member unless and until the designation is revoked in writing received by the Alliance or superseded by a subsequent designation provided in writing in the form attached as Exhibit B and received by the Alliance.

Section 4. Services Provided by the Alliance. For and during the Term of this Agreement, the Alliance, acting as the agent for and on behalf of its Members, hereby agrees as follows:

(i) To enter into negotiations with one or more insurance companies for the provision of health or other insurance coverage;

(ii) To enter into one or more agreements with an insurer for the provision of health or other insurance coverage and to make available to the Member a copy of each said agreement and all amendments thereto upon request by the Member; and

(iii) To manage the property, business, and affairs of the Plan, including the day-to-day administration of the Plan.

Section 5. Term and Termination

Section 5.1 Term. Subject to any Renewal Term(s) and unless sooner terminated as provided below, this Agreement shall be for a term commencing on January 1, 2023 or other date, as applicable, and continuing thereafter until December 31, 2023 (the “Initial Term”). This Agreement shall renew automatically for subsequent one year terms (the “Renewal Term(s)”) unless and until (i) a new Agreement is required by the Alliance, (ii) this Agreement is terminated as provided herein, or (iii) notice of non-renewal of the Agreement is provided in accordance with Section 5.2 of this Agreement. The Initial Term and any Renewal Term(s) shall be referred to collectively herein as the “Term” or the “Terms.”

Section 5.2 Notice of Non-Renewal. Notwithstanding anything herein to the contrary, the Member may preclude the automatic renewal described in Section 5.1 of this Agreement by providing written notice to the Alliance at least thirty (30) days prior to the commencement of the Renewal Term.

Section 5.3 Termination. This Agreement may be terminated during its Term as follows:

(i) Termination by Mutual Consent. At any time by mutual written consent of each of the parties.

(ii) Immediate Termination in Certain Events. At any time upon the affirmative vote of a majority of the Alliance's Board of Directors in the event the Member fails to meet the qualifications of Section 1 of this Agreement or the Member obligations of Section 3 of this Agreement.

(iii) Termination for Breach. Except in the circumstances described in Section 5.3(ii) above, which shall be governed exclusively by the provisions of Section 5.3(ii), at any time by either party upon prior written notice to the other party in the event the other party has failed or refused to observe or perform any obligation, undertaking or agreement that such other party is required to observe or perform pursuant to the terms of this Agreement in any material respect (a "breach") and has failed to cure such breach to the reasonable satisfaction of the party giving the notice within thirty (30) days following the date on which notice was received or such shorter period as is specified in such notice, if the party giving the notice reasonably believes that the breach in question is likely to result in their incurring irreparable harm or imminent and material financial loss.

(iv) Termination for Fraud or Intentional Misrepresentation. At any time or retroactively upon the affirmative vote of a majority of the Alliance's Board of Directors in the event of fraud, an intentional misrepresentation of material fact, or if the Member provided the Alliance with false information affecting this Agreement or the provision of coverage under this Agreement.

Section 5.4 Effect of Termination or Expiration on Plan Participation. Participation in the Plan will cease on the date this Agreement terminates or expires.

Section 6. Indemnification. The Member hereby agrees to indemnify and hold the Alliance and its officers, directors, employees, agents, and representatives harmless from any and all liabilities, losses, damages, penalties, fines, costs, or expenses (including without limitation court costs and reasonable attorneys' fees) to the extent the same are incurred in connection with any demand, suit, audit, investigation, or other proceeding and arise out of or relate in whole or in part to: (i) any act or omission of the Member or any of its board members, officers, employees, agents, or representatives which occurs in the course of the Member's performance of this Agreement; or (ii) failure by the Member to observe or perform any obligation, undertaking, or agreement required to be observed or performed by the Member pursuant hereto. The Member hereby further agrees to indemnify and hold the Plan, the Alliance, and the Alliance's officers, directors, employees, agents, and representatives harmless from any and all liabilities, losses, damages, penalties, fines, costs, or expenses (including without limitation court costs and reasonable attorneys' fees) to the extent the same are incurred in connection with any demand, suit, audit, investigation, or other proceeding and arise out of or relate in whole or in part to or that occur as a result of the Member's failure to comply with applicable law with respect to the Plan.

Section 7. Budgeting and Finance. The Board of Directors of the Alliance will establish a budget covering the operations of the Alliance each year, on an annual basis. The Alliance's Members pay the costs and expenses of the Alliance's operations, which include but are not limited to fiduciary liability coverage, income and other tax return preparation fees, any income or other taxes that are owed, and certain legal fees. The Member acknowledges and agrees that the Alliance may collect a membership assessment to cover its operational expenses in the amount, at the time, and in the manner determined by the Alliance's Board of Directors. To facilitate planning, an estimated Member assessment is attached on **Exhibit C** attached hereto and incorporated by this reference. The Member acknowledges and agrees that the Board of Directors may modify the assessment at any time. Unless otherwise agreed in writing, the amount of such costs and expenses assessed to each Member will be prorated according to the ratio of the Member's number of participating employees (including the Member(s)) receiving coverage under the Plan for the immediately preceding calendar year to the aggregate number of total participating employees (including the Member(s)) receiving coverage under the Plan for such year.

Section 8. Amendment. This Agreement may be modified only by a written amendment duly executed by both the Member and the Alliance. No alteration or variation of the terms and conditions of the Agreement shall

be valid or binding unless made in writing and signed by both the Member and the Alliance. Every amendment shall specify the date on which its provisions shall be effective.

Section 9. Records; Audits. The Member must furnish the Alliance with all information which it may reasonably require with regard to any matters pertaining to this Agreement. The Alliance may at any reasonable time inspect: (1) all documents furnished to the Member by any individual in connection with coverage under the Plan; (2) the Member's payroll (for purposes of confirming eligibility to participate in the Plan); and (3) any other records pertinent to the Plan coverage provided pursuant to this Agreement. The parties agree that all personal information including information and records with respect to benefits under the Plan will be treated as confidential by both parties. Notwithstanding the foregoing, the Alliance has the right to release any and all records concerning health care services which are necessary to implement and administer the terms of the Plan, including records necessary for appropriate medical review and quality assessment, or as the Alliance is required by law or regulation.

Section 10. Assignment. Neither the Member nor the Alliance may assign or transfer any of its or their interest, rights, or duties under this Agreement to any person, firm, or entity without prior written consent of the other party to this Agreement, which consent may be granted or withheld by the other party in its sole discretion. In the absence of such written consent, any such assignment or attempted assignment shall be invalid and shall constitute a breach of this Agreement.

Section 11. Governing Law. This Agreement shall be subject to, governed by, and construed according to the laws of the State of Nebraska, without regard to principles of conflicts of laws.

Section 12. Entire Agreement. This written Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and any prior or contemporaneous representations, promises, or statements by the parties that are not expressly incorporated herein or therein shall not serve to vary, contradict, augment, modify, or supplement the terms set forth in this Agreement.

Section 13. Survival. All rights, remedies, obligations, and all covenants and agreements set forth in this Agreement which by their terms require or contemplate performance which is to extend or occur after the expiration or termination of the Agreement shall survive the termination or expiration of the Agreement and shall remain in effect and be enforceable as between the parties hereto in accordance with the terms.

Section 14. Severability. The intention of the parties to this Agreement is to comply fully with all laws and public policies, and this Agreement will be construed consistent with all laws and public policies to the extent possible. If, and to the extent that any court of competent jurisdiction is unable to so construe part or all of any provision of this Agreement, and holds that part or all of that provision to be invalid, such invalidity will not affect the balance of that provision or the remaining provisions of this Agreement, which will remain in full force and effect.

Section 15. Non-waiver. No failure by either party to insist upon strict compliance with any term of this Agreement, enforce any rights, or seek any remedy upon any default of the other party will affect, or constitute a waiver of, the other party's right to insist upon such strict compliance, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default; nor will any custom or practice of the parties at variance with any provision of this Agreement affect, or constitute a waiver of, either party's right to demand strict compliance with all provisions of this Agreement.

Section 16. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original, and all shall constitute one and the same instrument.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned have signed this Agreement fully intending the same to be binding upon themselves and their respective trustees, receivers, successors and permitted assigns.

Employer Member

Nebraska Dental Association Health Insurance Alliance

Name of Employer

By: _____
Signature

Print Name and Title

Date: _____

By: _____
Signature

NDA Health Insurance Alliance President

Date: _____

EXHIBIT A

Certification of Active NDA Membership

The Member certifies that the following individuals hold a DDS, DMD, or equivalent degree, are eligible for membership in The Nebraska Dental Association, and have an ownership interest in the Member. Each such individual, listed directly below with his/her ADA member number, has an active membership in good standing with The Nebraska Dental Association.

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

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Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

Name (Print): _____ ADA #: _____

(Please attach supplemental sheets as necessary to reflect all applicable individuals of the Member.)

EXHIBIT B

Certification of Designated Member

Member Name: _____

The undersigned hereby certifies to the Nebraska Dental Association Health Insurance Alliance (the "Alliance") as follows:

1. That he or she is now duly authorized to execute this Certificate on behalf of the above-captioned Alliance Member (the "Member");

2. That any previous designation, certification, or appointment of a Voting Member of the Member are hereby revoked and superseded; and

3. That the following individual is an officer, manager, director, member, or employee of the Member, and is hereby authorized, designated, and certified by the Member as the Voting Member entitled to act on the Member's behalf and to cast votes for the Member on Alliance matters:

Voting Member Name: _____

IN WITNESS WHEREOF, I have hereunto signed my name this ____ day of _____, 20____.

_____, Member
Member Name

By: _____

Its: _____

EXHIBIT C

Member Assessment

The Member Assessment for the Plan Year beginning January 1, 2023 will be thirty dollars (\$30) for each employee (including each individual who has any ownership interest in the Member) covered under the Plan. The Member Assessment will be collected from each Member during the annual member enrollment process for that Plan Year. The Alliance will notify the Members of the amount of the Member Assessment prior to each subsequent Plan Year.