



AFFILIATE AGREEMENT

This **AFFILIATE AGREEMENT** (this “Agreement”), dated as of _____, 20____, is by and between National Children’s Oral Health Foundation, a Delaware non-profit corporation (“NCOHF”), and _____ [name], a _____ [state of incorporation] non-profit corporation (the “Affiliate”).

BACKGROUND STATEMENT

NCOHF is a non-profit foundation dedicated to the prevention of pediatric oral disease and the promotion of overall child health and well-being. In accordance with this mission, NCOHF serves as a comprehensive resource provider for an affiliate network (the “Affiliate Network”) of non-profit dental and public health facilities that provide oral health treatment, preventive therapies and educational programs (the “Services”) to children in vulnerable populations in local communities. The Affiliate is a provider of the Services and desires to join the Affiliate Network upon the terms and conditions set forth in this Agreement.

STATEMENT OF AGREEMENT

In consideration of the mutual agreements and covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties agree as follows:

1. NCOHF RESOURCES

1.1 Grants. NCOHF shall provide the Affiliate with access to such grants of funds as may be available to NCOHF from time to time for distribution to members of the Affiliate Network. NCOHF may, in its sole discretion, distribute a portion of such available funds to the Affiliate after evaluating the needs of the Affiliate and the other members of the Affiliate Network. At the request of the Affiliate, NCOHF shall provide resources for collaborative approaches between NCOHF and the Affiliate to relationships with national and regional foundations. Such resources shall include, but not be limited to, joint grant applications submitted by NCOHF and the Affiliate when mutually beneficial; provided, that NCOHF and the Affiliate jointly review and approve all elements of such applications prior to submission.

1.2 Supplies and Equipment. NCOHF shall provide the Affiliate with access to donated or substantially discounted oral health supplies, dental materials and/or equipment (collectively, the “Donated Goods”), in each case, as donated or otherwise made available to NCOHF from time to time. NCOHF shall, from time to time, review requests submitted by the Affiliate in accordance with **Section 2.3**, together with all other requests submitted by other

members of the Affiliate Network to determine an appropriate allocation of Donated Goods among the requesting members of the Affiliate Network. In the event that NCOHF allocates Donated Goods to the Affiliate, NCOHF shall coordinate and facilitate the delivery of Donated Goods to the Affiliate with no requirement of payment to NCOHF by the Affiliate. In the event that any Donated Goods allocated to the Affiliate include discounted items that are not donated outright, NCOHF shall facilitate communications between the Affiliate and the donating entity, but the Affiliate shall be responsible for establishing with the donating entity any terms of payment and delivery of such Donated Goods.

1.3 Resources for Delivery of Services. NCOHF shall assist the Affiliate in expanding and enhancing the Affiliate's delivery of the Services through the following measures:

(a) NCOHF shall provide the Affiliate with one [electronic] copy of *The Guide*, a complete guidebook of protocols and policies for members of the Affiliate Network based on recommendations by NCOHF's Scientific Advisory Board and other oral health experts. A table of contents for *The Guide* is available upon request. NCOHF shall provide mentoring services to support the Affiliate's implementation of and compliance with the established protocols and policies described in *The Guide*. *The Guide* is proprietary to NCOHF and may not be reproduced, duplicated, distributed or disseminated, in whole or in part, by the Affiliate without the prior written consent of NCOHF.

(b) NCOHF shall facilitate the sharing of best clinical practices among the members of the Affiliate Network using a variety of models that respond to local community needs and available resources.

(c) NCOHF shall notify PreViser Corporation that the Affiliate has joined the Affiliate Network and facilitate the Affiliate's access to PreViser Corporation's risk and disease assessment technology to allow the Affiliate to perform oral health risk assessments on each patient; provided, however, that in the event that PreViser Corporation withdraws its donation of access to such technology, NCOHF's obligations under this **Section 1.3(c)** shall immediately terminate and be of no further effect. To the extent available, the Affiliate may incorporate PreViser Corporation's risk and disease assessment technology into its practice in order to enhance patient education and record-keeping. The Affiliate shall perform oral health risk assessments, including, but not limited to, the areas of periodontal diseases, caries and oral cancer as applicable on each patient treated by the Affiliate.

(d) NCOHF shall provide the Affiliate with information, education and support relating to protocols for aggressive preventive oral health therapies, including, but not limited to, protocols for the use of fluorides, antimicrobials, sealants, xylitol, demineralization and remineralization.

(e) Educational Support. NCOHF shall provide a variety of engaging, science-based educational materials for children of all ages and parents, and for professionals to expand and enhance their preventative and restorative oral health services. NCOHF shall also facilitate the provision of training and ongoing support in

the use of the materials in various community settings. A sample list of educational materials for children is available upon request.

1.4 Community Outreach. NCOHF shall assist the Affiliate in its community outreach efforts as follows:

(a) NCOHF shall provide the Affiliate with opportunities to be included in national public relations campaigns and fund development initiatives undertaken by NCOHF from time to time.

(b) NCOHF shall provide the Affiliate with technical support and materials to assist the Affiliate in outreach to its local community, fundraising strategies, and national campaigns for the delivery of local services.

2. DUTIES OF AFFILIATE

2.1 Initial Membership Expense. Upon execution of this Agreement, the Affiliate shall pay to NCOHF a one-time, non-refundable fee of **\$5000** to cover the initial costs of educational and support materials to be provided to the Affiliate.

2.2 Delivery of Services. The Affiliate shall serve the pediatric oral health needs of children in vulnerable populations in the following Affiliate community(ies): _____¹ (the “Affiliate Community”). The Affiliate shall deliver the Services to eligible members of the Affiliate Community, and shall do so in material compliance with the protocols and policies established in *The Guide*.

2.3 Request for Supplies and Equipment. The Affiliate shall submit to NCOHF, as solicited by NCOHF from time to time, a request detailing the Donated Goods the Affiliate requires for the delivery of the Services. In the event that NCOHF allocates Donated Goods to the Affiliate, the Affiliate shall use all Donated Goods received from or through NCOHF, as well as any funds received from NCOHF, to provide the Services to the Affiliate Community. The Affiliate shall not sell or redistribute for gain any Donated Goods.

2.4 Participate in Monthly Surveys. The Affiliate shall participate in brief monthly surveys to gain access to resources. The surveys help NCOHF better understand the Affiliate’s needs and assist in providing financial and donated goods that are effective for the Affiliate Community.

2.5 Education Programs. The Affiliate shall provide oral health-related education at each encounter with a child or the child’s caregiver. The Affiliate shall also conduct periodic oral health education programs for the Affiliate Community. Such programs shall be independent of clinical care and may take place in various community settings, including, but not limited to, pediatric clinics, school screenings, school classroom demonstrations and community health fairs. Such programs shall include, but not be limited to, oral biofilm control, prevention of germ transmission, mouth safety and nutrition.

¹ Insert best geographical description (parish, ward, district, city, county, state etc.) as appropriate.

2.6 Promotion of NCOHF. The Affiliate shall use its reasonable efforts to acknowledge and promote its status as a member of the Affiliate Network. Therefore, NCOHF hereby grants to the Affiliate a non-exclusive, nontransferable, royalty-free, revocable, limited license to use any of NCOHF's trademarks, trade names and service marks, whether registered or unregistered (the "Marks"), solely for the purpose of promoting the relationship between NCOHF and the Affiliate in its public relations campaigns, press releases, public service announcements, informational pamphlets, publication articles and editorials, advertisements and similar materials conducted, distributed or placed by the Affiliate (the "Promotional Materials"). The Affiliate shall provide NCOHF the opportunity to review such Promotional Materials at least 14 days prior to their planned use and NCOHF may reject the use of any Promotional Materials that it determines, in its sole discretion, to be inaccurate, inappropriate or inadvisable for the purposes of this Agreement or the mission of NCOHF. The Affiliate shall have no right to sublicense, assign or otherwise transfer this limited license to any other party or use the Marks for any other purpose without NCOHF's express written consent.

2.7 Website Link. If, at any time during the term of this Agreement, the Affiliate maintains a website or webpage, the Affiliate shall include the NCOHF logo on such website or webpage and shall link to the website of NCOHF located at <http://www.ncohf.org>, or any successor website of NCOHF, as designated by NCOHF.

3. REPRESENTATIONS AND WARRANTIES OF AFFILIATE

As of the date hereof, the Affiliate represents and warrants to NCOHF as follows:

3.1 Organization. The Affiliate is a corporation duly incorporated, validly existing and in good standing under the laws of [state of incorporation].

3.2 Authority; Enforceability. The Affiliate has all requisite corporate power and authority to enter into this Agreement, and the execution and delivery of this Agreement has been authorized by all necessary corporate action. This Agreement constitutes a valid and binding obligation of the Affiliate, enforceable against it in accordance with its terms.

3.3 Tax-Exemption. The Affiliate is a non-profit organization and is exempted from federal income tax under Section 501(c)(3) of the Internal Revenue Code and exempted from state income tax under one or more applicable exemptions. The Affiliate has provided NCOHF with correct and complete copies of certification letters from the Internal Revenue Service and the applicable state taxing authority confirming the Affiliate's exempt status; provided, that if any such certification letter is outstanding as of the date of this Agreement, the Affiliate has provided NCOHF with a correct and complete copy of its application for exemption submitted to the Internal Revenue Service or the state taxing authority and shall provide NCOHF with a correct and complete copy of the certification letter promptly upon receipt.

3.4 Affiliate Application Form. Prior to the date of this Agreement, the Affiliate has completed and submitted to NCOHF an Affiliate Application Form, which NCOHF has used to evaluate the Affiliate's eligibility for membership in the Affiliate Network. All of the information in such Affiliate Application Form is correct and complete in all material respects.

3.5 Insurance. The Affiliate carries an adequate level of general liability and malpractice insurance for an organization of its size and for the scope of services provided. The Affiliate has provided NCOHF with correct and complete copies of its current general liability and malpractice insurance policies.

4. REPRESENTATIONS AND WARRANTIES OF NCOHF

As of the date hereof, NCOHF represents and warrants to the Affiliate as follows:

4.1 Organization. NCOHF is a non-profit corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware.

4.2 Authority; Enforceability. NCOHF has all requisite corporate power and authority to enter into this Agreement, and the execution and delivery of this Agreement has been authorized by all necessary corporate action. This Agreement constitutes a valid and binding obligation of NCOHF, enforceable against it in accordance with its terms.

5. OTHER OBLIGATIONS OF AFFILIATE

5.1 Fulfillment of Grant Obligations. NCOHF solicits grants and donations (the “Grants”) from third-party donors. In the event that NCOHF allocates all or a portion of any Grant to the Affiliate, the Affiliate shall use its best efforts to timely comply with all conditions and reporting obligations required by the terms of such Grant and such compliance shall be an express condition of NCOHF’s continued funding of such Grant allocation to the Affiliate. The terms of this **Section 5.1** shall survive the termination of this Agreement.

5.2 Annual Information Return. The Affiliate shall, within 30 days of filing, provide to NCOHF a copy of its annual information return filed with the Internal Revenue Service on Form 990, Form 990-EZ, Form 990-N or Form 990-PF, as applicable.

5.3 Service Delivery Database. The Affiliate shall participate in a national research database (the “Database”) that evaluates the efficacy of the Affiliate Network on an individual and collective basis. NCOHF shall deliver to the Affiliate an annual survey regarding its provision of the Services to the Affiliate Community, and the Affiliate shall complete and return such annual survey to NCOHF by the date specified therein. The Affiliate shall also complete and return such interim surveys as may be requested by NCOHF from time to time. The Affiliate hereby consents to inclusion in the Database of the information provided in such surveys.

5.4 Resource Report. The Affiliate shall provide to NCOHF an annual report, due January 31st, detailing the Affiliate’s successes and challenges in the preceding year relating to implementation of NCOHF resources in the following areas: funding support, receipt of Donated Goods, educational programs, operation manuals, technical training, national fundraising opportunities, and public relations and marketing assistance.

5.5 Anecdotal Reporting. The Affiliate shall collect and provide periodically to NCOHF photographs, stories and vignettes of children who have been positively impacted by the Affiliate’s provision of the Services. The Affiliate shall secure permission from the parents or

legal guardians of such children that allows NCOHF to utilize the photographs, stories and vignettes in any fundraising or public relations campaigns conducted by NCOHF. The Affiliate must provide signed waiver and release form to NCOHF.

5.6 Non-Profit Status.

(a) The Affiliate shall maintain continuously its status as a non-profit organization, including its exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code and its applicable exemption from state income tax. The Affiliate shall notify NCOHF immediately upon any loss of non-profit status or federal or state income tax exemption.

(b) The Affiliate shall, in all respects, conduct itself as a responsible non-profit organization, including through its internal governance, by maintaining a financially sustainable program, by attracting and retaining staff members and volunteers committed to oral pediatric health issues, and by fostering community involvement and support through collaboration with other community organizations.

5.7 Insurance Coverage. The Affiliate shall continue to maintain general liability and malpractice insurance coverage at levels equal to or greater than the levels maintained as of the date of this Agreement; provided, that the Affiliate may reduce its levels of general liability and malpractice insurance coverage in the event of comparable reductions in its size or scope of services. The Affiliate shall notify NCOHF promptly upon any loss of or reduction in general liability or malpractice insurance coverage.

6. LIMITATION OF LIABILITY; INDEMNIFICATION

6.1 Limitation of Liability. ALL PRODUCTS AND RESOURCES PROVIDED BY NCOHF TO THE AFFILIATE UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE DONATED GOODS ARE PROVIDED ON AN “AS-IS” BASIS AND NCOHF MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLICIT, WITH RESPECT TO SUCH PRODUCTS OR RESOURCES AND ASSUMES NO LIABILITY ARISING OUT OF THE AFFILIATE’S USE OF SUCH PRODUCTS OR RESOURCES. NCOHF assumes no liability arising out of the Affiliate’s delivery of the Services, whether such delivery is within or outside the scope of this Agreement. In no event shall NCOHF be liable to the Affiliate for any indirect, special, incidental, punitive, consequential or exemplary damages arising from the subject matter of this Agreement.

6.2 Indemnification. The Affiliate shall indemnify, defend and hold harmless NCOHF and its directors, officers, employees, agents, representatives and affiliates (each, an “Indemnified Party”) from and against any and all losses, liabilities, claims, damages, judgments, costs and expenses (including reasonable attorneys’ fees and court costs) to which an Indemnified Party may become subject as a result of or arising in connection with (i) any breach by the Affiliate of any provision of this Agreement or (ii) the Affiliate’s delivery of the Services.

6.3 Survival. The provisions of this **Section 6** shall survive any termination or expiration of this Agreement.

7. TERM AND TERMINATION

7.1 Term; Renewal. This Agreement shall commence on the date hereof and have an initial term of one year, unless earlier terminated as provided herein. Upon expiration of the initial term (and any subsequent renewal term), this Agreement shall be automatically renewed for successive terms of one year each unless notice is given by either party to the other party of an intent not to renew at least 30 days prior to the expiration of such initial term (or renewal term).

7.2 Termination.

(a) Either party may terminate this Agreement upon 30 days' written notice to the other party.

(b) NCOHF may terminate this Agreement immediately if the Affiliate (i) breaches its obligations in **Sections 5.6(a)** or **5.7** of this Agreement, or (ii) shall have failed to cure any default or breach of any other provision of this Agreement within 10 days of receiving notice thereof from NCOHF (provided, that if such default or breach is not capable of being cured, NCOHF may terminate this Agreement immediately).

(c) In the event of any bankruptcy or insolvency of the Affiliate, this Agreement shall terminate automatically without any requirement of notice.

7.3 Effect of Termination. Upon the termination or expiration of this Agreement:

(a) the Affiliate shall cease to be a member of the Affiliate Network;

(b) the Affiliate shall immediately cease to use the Promotional Materials and shall immediately remove from its website or webpage any logo of NCOHF and any link to NCOHF's website;

(c) the Affiliate's access to the resources of PreViser Corporation shall terminate;

(d) the Affiliate shall be permitted to retain *The Guide* and any other educational materials provided by NCOHF prior to the date of termination; and

(e) to the extent the Affiliate has received funding from any Grant as of the date of termination, the Affiliate shall be permitted to retain such funds, provided that the Affiliate continues to comply with the obligations set forth in **Section 5.1**. Continued funding of Grants jointly awarded to NCOHF and the Affiliate shall be determined on a case-by-case basis, in accordance with the terms of this Agreement and the Grant.

8. MISCELLANEOUS

8.1 Notices. Any notices to be given under this Agreement by either party to the other party shall be in writing and shall be sent by (i) hand delivery, nationally recognized overnight delivery service, or registered or certified mail, return receipt requested, (ii) facsimile transmission or (iii) electronic mail, in each case addressed as follows:

If to NCOHF:	If to Affiliate:
Jennifer A. Drake, Program Administrator	[Name]
4108 Park Road, Suite 406	[Address]
Charlotte, North Carolina 28209	
Phone: (704) 350-1600	Phone:
Fax: (704) 350-1333	Fax:
Email: jdrake@ncohf.org	Email:

Notices shall be deemed given on the date delivered if delivered by hand or overnight delivery, on the date the return receipt is signed, if given by registered or certified mail, or on the date of confirmation of receipt if delivered by facsimile or electronic mail. Either party may change its address for notices by giving written notice of such change to the other party pursuant to this **Section 8.1**.

8.2 Amendments; Waivers. This Agreement may be modified or amended only by another written agreement signed by the parties hereto. Failure by any party to enforce any provision of this Agreement shall not constitute a waiver by the party of any provision hereof, and any waivers of the provisions of this Agreement or a breach thereof shall be in writing and signed by the party waiving such provision or breach. The waiver by a party of a breach of any provision in this Agreement shall not operate or be construed as a waiver of any subsequent breach by the other party.

8.3 Severability. Any provision of this Agreement, which is held invalid or unenforceable, shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof.

8.4 Assignment; Binding Effect. This Agreement may not be assigned by the Affiliate without the prior written consent of NCOHF. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal successors and assigns.

8.5 Relationship. NCOHF's relationship with the Affiliate is limited to the terms of this Agreement. In no event shall the Affiliate or any of its employees, agents or representatives be considered employees, agents or representatives of NCOHF, nor shall this Agreement be deemed to create a joint venture or partnership between the parties.

8.6 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflicts of laws principles.

8.7 Jurisdiction; Attorney's Fees. The parties agree that in the event litigation is commenced between them, such litigation shall be filed and maintained in the North Carolina Superior Court in Mecklenburg County, North Carolina or the United States District Court for the Western District of North Carolina (Charlotte Division), and each of the parties hereto consents to the jurisdiction of such courts. If any party shall bring an action to enforce this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs from the unsuccessful party.

8.8 Headings. The section headings in this Agreement are inserted only as a matter of convenience and shall not define, limit, construe or describe the scope or extent of such section or in any way affect this Agreement.

8.9 Counterparts. This Agreement may be executed in one or more counterparts, all of which together shall constitute a single document. This Agreement may be executed on signature pages exchanged by electronic means, in which event each party shall promptly deliver to the other such number of original executed copies as the other may reasonably request.

8.10 Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, with respect thereto.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

**NATIONAL CHILDREN'S ORAL
HEALTH FOUNDATION**

By: _____
Fern Ingber
President and Chief Executive Officer

[AFFILIATE]

By: _____
Name: _____
Title: _____