

COOPERATIVE OPERATING AGREEMENT OF THE EXEMPLAR COOPERATIVE NETWORK

This COOPERATIVE OPERATING AGREEMENT (this “Agreement”), is made and entered into as of August 15, 2019, by and between Russell W. Patterson (referred to herein as the “Initial Member” and collectively with any future members as the “Members”), and Exemplar Cooperative Network, a North Carolina limited liability company (the “Company”).

BACKGROUND STATEMENT

The Company was formed on July 5, 2019 by the filing of its articles of organization by the North Carolina Secretary of State, under the original name “Exemplar Network, LLC.” On August ____, 2019, the Company filed amended articles of organization with the North Carolina Secretary of State, changing the name of the Company to Exemplar Cooperative Network, LLC. The Member and the Company hereby set forth this agreement regarding the management of the Company and the respective rights and obligations of the parties hereto.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

ARTICLE ONE GENERAL

Section 1.1 *Definitions.* The following terms shall have the following meanings:

“*Board*” shall mean the Company’s Board of Directors, as described herein.

“*Healthcare Provider*” shall mean any individual or business entity which provides healthcare to patients, such as a physician, a physician’s assistant, nurse practitioner, pharmacist or a medical group.

“*Independent Pharmacy*” shall mean a pharmacy which is not owned or operated by a publicly traded company, or the affiliate or subsidiary of a publicly traded company.

“*Members*” shall mean those individuals or business entities who apply for membership and are accepted by the Board of Directors, in accordance with the terms of this Agreement.

“*Turnover Date*” shall mean the date upon which a total of seven million dollars (\$7,000,000.00) has been distributed to the Members since the commencement of

the Company, or the date where the Company has a total of seven thousand (7,000) current Members, whichever occurs first.

Section 1.2 *Formation.* The Company was formed under and shall be operated in accordance with and pursuant to the North Carolina Limited Liability Company Act, Chapter 57D of the North Carolina General Statutes (the “Act”), as amended from time to time, which Act shall govern the rights and liabilities of the Members except as otherwise expressly stated in this Agreement. The business of the Company shall be conducted under the name Exemplar Cooperative Network LLC, or such other name as the Members may from time to time designate in accordance with applicable laws.

Section 1.3 *Operation of the Company.* The Company shall be operated as a cooperative style business network for the mutual benefit of its Members, who are Independent Pharmacies, Healthcare Providers, and others as permitted by the Board.

Section 1.4 *Contract with PBMs.* The Company shall contract with one or more pharmacy benefit managers (“PBMs”), who shall pay a percentage of their net profit to the Company, upon such terms and conditions as the Board shall determine. The initial PBM shall be Pro RxSolutions, LLC, a North Carolina limited liability company, which shall contribute fifty percent (50%) of its net profit to the Company. Each contract with a PBM shall be for a one year term, and all renewals, as well as any other applicant PBMs, shall be reviewed by the Board annually.

Section 1.5 *Distribution of Profits.* Once the Company has paid all of its expenses, and retained sufficient funds to cover anticipated expenses of the Company, all of the remaining profits shall be distributed to the Members. The precise amounts and timing of distributions shall be determined by the Board.

ARTICLE TWO MEMBERSHIP

Section 2.1 *Identification of Initial Member.* The initial Member shall be Russell Patterson.

Section 2.2 *Addition of Members.* Members may be added at any time, in unlimited numbers. A Member must be from one of the following categories: 1) an owner of an Independent Pharmacy; 2) a Healthcare Provider; or 3) any other party. To be admitted as a Member, applicants in categories 1 or 2 above must be approved by a majority of the Company’s Board of Directors (the “Board”). Applicants in category 3 must be approved by unanimous consent of the Board. Members may be either individuals or business entities.

Section 2.3 *Application for Membership.* To be considered for admission as a Member, an applicant must completely fill out an application for membership, on the forms provided by the Board.

Section 2.4 *Execution of Acceptance of This Agreement.* After receiving approval from the Board, an applicant must execute the acceptance of this Agreement, the form of which is found at the end of this Agreement. The remaining Members do not have to sign an amended operating agreement each time that a new Member joins, or a Member is terminated.

Section 2.5 *Capital Contributions.* Members shall not be required to make any capital contributions, or make any payments to the Company. There are no capital accounts of the Members.

Section 2.6 *No Transfer/Encumbrance of Membership.* No Member may transfer or assign his, her or its membership interest. No Member may pledge, mortgage, or lien their membership.

Section 2.7 *Resignation/Termination of Membership.* A Member may resign at any time, which immediately results in their membership being terminated. A Member's membership interest is automatically terminated upon their death or legal incapacity. A Member's membership interest may also be terminated by a majority vote of the Board. Upon a Member's interest being terminated, that Member is not entitled to any compensation, and is not entitled to any further distributions, unless specifically directed by the Board.

Section 2.8 *Everyone with an NPI Number May Be a Member.* Each person or entity with a separate National Provider Identification Number ("NPI Number") may be a Member. For example, if a medical practice has four individuals, each with a separate NPI Number, then all four can become Members.

Section 2.9 *No Required Meetings of the Members.* The Members do not have to conduct regular meetings; however, after the Turnover Date, they must annually vote on the directors to represent them on the Board. These elections shall occur according to the terms and conditions established by the Board, including the possibility of voting by email, or other electronic means.

ARTICLE THREE
BOARD OF DIRECTORS

Section 3.1 *Pre-Turnover Board Member.* Prior to the Turnover Date, the initial number of directors on the Board shall be one, and the initial Member of the Board shall be Russell Patterson.

Section 3.2 *Board Members Post Turnover.* After the Turnover Date, the number of directors on the Board shall be five; one shall be Russell Patterson, or his designee, and the other four shall be elected by the Members.

Section 3.3 *Meetings.* The Board shall meet as often as it shall determine is necessary for Company business, but at least annually.

Section 3.4 *Attendance at Meetings.* Directors may attend Board meetings in person, by telephone, or by video conferencing, as available.

Section 3.5 *Consent by Email.* The Board may take action by way of a proposal emailed to each of the directors, which is then voted on by responsive emails from the directors. If the proposal passes, it shall have the effect of being adopted by the Board, as though it was adopted at a meeting.

ARTICLE FOUR DISTRIBUTIONS TO MEMBERS

Section 4.1 *Distributions.* Distributions shall be made to the Members at such times and in such amounts as determined by the Board, at least annually, after allowing for payment of all expenses of the Company, and after leaving such funds in the Company as the Board may determine for reasonable upcoming expenses.

Section 4.2 *How Distributed.* The amount of each Member's distribution shall be determined by taking the total amount of money to be distributed, and dividing it by the number of Members. Each Member shall effectively receive one share, by check or other transfer as the Board may determine.

Section 4.3 *Money to be Distributed.* 50% of all after tax net profit made by the Exemplar PBM Partner will be distributed to the Members. 50% of all after tax net profit made by the Exemplar Health Plan will be distributed to the Members.

ARTICLE FIVE POWERS, RIGHTS AND DUTIES OF THE BOARD

Section 5.1 *Major Decisions.* The Board shall not take or agree to take any of the following actions without a unanimous vote of all of the Board members and a majority vote of the Members:

- (a) The admission of any person or entity as a Member who is not a Healthcare Provider, or Independent Pharmacy;
- (b) Selling, transferring or otherwise disposing of all or substantially all of the Company's assets;
- (c) Making capital expenditures exceeding \$10,000.00 in any one year; or
- (d) Merging the Company into or with another limited liability company, or dissolving the Company.

ARTICLE SIX
LIMITATION OF LIABILITY AND INDEMNIFICATION OF
DIRECTORS

Section 6.1 *Limitation of Liability.* No Member of the Board of Directors of the Company shall be liable to the Company or its Members for monetary damages for an act or omission in such person's capacity as a Director within the scope of the authority conferred upon him by this Agreement, except for acts of gross negligence or except as provided in the Act for (i) acts or omissions which the Manager or Member knew at the time of the acts or omissions were clearly in conflict with the interests of the Company, (ii) any transaction from which a Manager or Member derived an improper personal benefit, or (iii) acts or omissions occurring prior to the date this provision becomes effective. If the Act is amended to authorize action further eliminating or limiting the liability of Managers and Members, then the liability of a Director of the Company shall be eliminated or limited to the fullest extent permitted by the Act as so amended. Any repeal or modification of this Section shall not adversely affect the right or protection of a Director existing at the time of such repeal or modification.

Section 6.2 *Indemnification.* The Company shall indemnify the Directors to the fullest extent permitted or required by the Act, as amended from time to time, and the Company may advance expenses incurred by the Director upon the approval of the Board and the receipt by the Company of an undertaking by such Director to reimburse the Company unless it shall ultimately be determined that such Director is entitled to be indemnified by the Company against such expenses.

Section 6.3 *Other Rights.* The indemnification provided by this Agreement shall: (i) be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any statute, agreement, vote of disinterested Directors, or otherwise, both as to action in official capacities and as to action in other capacity while holding such office; (ii) continue as to a person who ceases to be a Director; (iii) inure to the benefit or the estate, heirs, executors, administrators or other successors of an indemnitee; and (iv) not be deemed to create any rights for the benefit of any other person or entity.

Section 6.4 *No Member Liability.* All indemnification owed to any Indemnitee under this Article shall be paid solely out of the assets of the Company (or insurance proceeds payable to the Company for such purposes), and no Member shall be personally liable with respect to any claim for indemnity or reimbursement from such Indemnitee.

ARTICLE SEVEN
DISSOLUTION AND TERMINATION OF THE COMPANY

Section 7.1 *Events of Dissolution.* The Company shall be dissolved (a) upon the mutual consent of all Members of the Board and majority vote of Members; or (b) the entry of a decree of judicial dissolution under Section 57D-6-05 of the Act; or (c) 30 days after the filing by the North Carolina Secretary of State of a certificate of dissolution under Section 57D-6-06 of the Act, provided that the Company shall not have applied for reinstatement within such 30-day period pursuant to Section 57D-6-06(c) of the Act.

Section 7.2 *Winding-Up the Company.* In the event of a dissolution of the Company, a reasonable time shall be allowed for the orderly liquidation of the assets of the Company and the discharge of liabilities to creditors so as to enable the Members to minimize the normal losses attendant upon a liquidation. The Members shall continue to share profits during the liquidation in the same proportion as before dissolution. The proceeds from liquidation of Company assets shall be applied as follows: (a) payment to creditors of the Company, other than Members, in the order of priority provided by law and the establishment of a reserve for any unforeseen liabilities or obligations; and (b) in accordance with Article 4 hereof.

ARTICLE EIGHT MISCELLANEOUS

Section 8.1 *Notices.* All notices or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be mailed by certified first class mail, or overnight delivery, to the Company, at Attn: Russell Patterson, 1107 West Market Center Drive, High Point, NC 28260. Notices to individual Members shall be to the address provided on their application, or to an amended address, if they have provided one. Any Member may change its address by giving notice to the Company in writing.

Section 8.2 *Amendments.* This Agreement may not be modified or amended except with the written consent of all Members.

Section 8.3 *Captions.* The captions and headings as used in this Agreement are used for convenience and reference only, and do not constitute substantive matter to be considered in construing the terms of this Agreement.

Section 8.4 *Variations in Pronouns.* All personal pronouns used in this Agreement whether used in masculine, feminine or neuter gender, shall include all other genders; singular shall include plural, and vice versa; and shall refer solely to the parties signatory thereto except where otherwise specifically provided.

Section 8.5 *Cumulative Remedies.* Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise.

Section 8.6 *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

Section 8.7 *Entire Agreement.* This Agreement is the entire Agreement among the parties with respect to the subject matter hereof, and no representations or covenants, whether oral or written, have been made regarding the subject matter hereof except as provided herein.

Section 8.8 *Severability.* Every provision of this Agreement is intended to be severable, and if any term or provision hereof shall be declared illegal, invalid, or in conflict with the North Carolina Limited Liability Company Act, or the purposes of this Agreement for any reason whatsoever, such term or provision shall be ineffectual and void, and the validity of the remainder of this Agreement shall not be affected thereby.

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