

AFFILIATION AGREEMENT

This Affiliation (“Agreement”) is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between United Way of Pennsylvania (hereinafter referred to as “United Way”) and PA 2-1-1, Inc. (hereinafter referred to as “2-1-1”).

WHEREAS, United Way and PA 2-1-1 are both Pennsylvania nonprofit corporations which are exempt from Federal Income Taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, in furtherance of its tax-exempt, charitable purposes, United Way has supported the operations of 2-1-1; and

WHEREAS, the parties have agreed, effective as of \_\_\_\_ \_\_\_\_, 2019 (the “Closing Date”), that United Way will become the sole member of 2-1-1 and 2-1-1 will become a wholly owned subsidiary of United Way.

Accordingly, in consideration of the mutual covenants and agreements set forth herein, and intending to be legally bound hereby, United Way and 2-1-1 agree as follows:

1. Transaction. Effective as of the Closing Date: (i) the articles of incorporation of 2-1-1 shall be amended and restated in the manner set forth on Exhibit A hereto (the “Articles”); which such Articles shall provide that United Way is the sole member of 2-1-1; and (ii) the bylaws of 2-1-1 shall be amended and restated in the manner set forth on Exhibit B hereto (the “Bylaws”), which such Bylaws shall, among other things, provide that: (A) a nominating committee, consisting of six (6) members, shall be formed for the nomination of 2-1-1’s board members, and for the first three (3) years following the Closing Date, the nominating committee shall consist of three (3) 2-1-1 board members who were in office immediately prior to the Closing Date; and three (3) 2-1-1 board members who are designated by United Way (the initial

nominating committee (as of the Closing Date) is set forth on Exhibit C hereto) and following such three (3) year period, shall consist of three (3) 2-1-1 board members selected by United Way and three (3) 2-1-1 board members selected by the 2-1-1 board members in place at the time of such selection; (B) following the Closing Date, United Way shall have the right to designate fifty percent (50%) plus 1 of 2-1-1's directors (the "United Way Designated Directors") and for the first three (3) years following the Closing Date, the nominating committee shall propose a slate for the remaining 2-1-1 directors, which such slate shall be elected by United Way to serve on the 2-1-1 board of directors ("Other Directors") and during such three (3) year period, United Way shall have the right to remove all 2-1-1 directors for cause and United Way Designated Directors not for cause, and that only the 2-1-1- board shall have the right to remove the Other Directors not for cause; and that following such three (3) year period, United Way, as the sole member, shall have the right to elect and remove all 2-1-1 board members; provided, however, following such three (3) year period the nominating committee shall make recommendations to United Way regarding the election of non United Way Designated Directors (the initial 2-1-1 board members, following the Closing Date, are set forth on Exhibit D hereto) and (C) United Way as the sole member of 2-1-1, shall have the following reserve powers with respect to the operation of 2-1-1 following the Closing Date: to approve all amendments, modifications, restatements and alterations to 2-1-1's articles of incorporation and bylaws; to approve mergers, consolidations, acquisitions, affiliations or any other reorganizations of 2-1-1; to approve the sale, transfer, long-term lease, long-term encumbrance, mortgage or disposition of all or substantially all of 2-1-1's assets; to approve any plan of dissolution, to determine the distribution of assets upon dissolution of 2-1-1; to approve the annual operating and capital budgets and all strategic plans of 2-1-1, including the discontinuance of any 2-1-1

program (each following approval by 2-1-1's board of directors); and to appoint the chief professional officer of 2-1-1, with the right to remove the same with or without cause, following consultation with the Chairperson of the 2-1-1 Board of Directors. Subject to the powers reserved to United Way, the 2-1-1 board shall have charge of and control of 2-1-1's business and affairs and the legal responsibility for 2-1-1's role, programs and operations, including, without limitation the right to elect 2-1-1's officers (subject to the approval by United Way of the chief professional officer of 2-1-1).

2. The parties shall file all necessary forms, documentation and tax returns consistent hereof, including the Articles.

3. Staff and Personnel. Effective as of the Closing Date, all employees of 2-1-1, who are not already employees of United Way, shall become employees of United Way to be retained in the same or comparable positions to those which they now hold, and thereafter, shall be subject to all rules, procedures and protocols governing employees of United Way. All such employees of 2-1-1 shall be employees-at-will of United Way. Following the Closing Date, the retention, staffing and discharge of all employees and personnel, including independent contractors or outside professionals, shall rest exclusively with United Way, following consultation with the chief professional officer of 2-1-1, including the retention, staffing, and discharge of employees and personnel involved with programs and services provided by 2-1-1. The parties agree and acknowledge that additional employees may need to be retained by United Way in order to potentially expand the services being provided today to 2-1-1.

4. Programmatic Activities of PA 2-1-1 and United Way. Subject to section 6 below, the parties acknowledge that to the extent that it is fiscally responsible to do so and funding allows, they desire to maintain and continue the mission and the core program offerings

being conducted by 2-1-1 as of Closing Date with the design and content of such core program offerings to be subject to the quality standards and performance benchmarks that United Way and 2-1-1 have traditionally established for their respective programs. Following the execution of this Agreement, United Way and 2-1-1 shall cooperatively work to obtain all third party consents, to the extent required, for all existing contracts and licenses of 2-1-1 that require consent to remain in place following the Closing Date.

5. Donations And Fundraising. Following the Closing Date, all future fundraising activities on behalf of the parties hereto shall be conducted by United Way, or any agency or committee charged by United Way with responsibility for fundraising activities. All donations and contributions received after the Closing Date that are specifically designated in the name of 2-1-1, including all gifts and bequests, foundation and trust distributions, and other funds specifically directed to 2-1-1 together with any other funding received by United Way or 2-1-1 that is designated for 2-1-1's services, shall be used to support 2-1-1 programs. All other donations or funds raised by United Way (that are not designated for 2-1-1's services and programs) following the Closing Date shall be allocated as the board of directors of United Way, or its designees, may from time to time determine.

6. Allocation Of Resources. It is United Way's goal to maintain and operate programs of 2-1-1 without interruption, and United Way will make reasonable efforts to maintain adequate funding for these programs. Notwithstanding the foregoing provisions, the board of directors of United Way shall have the ultimate authority to discontinue the operation of any program, activity or service previously conducted by 2-1-1. The decision of the board of directors of United Way as to the discontinuation of any program or activity following the Closing Date shall be conclusive on all parties.

7. Mutual Cooperation. United Way and 2-1-1 each affirm and hereby commit that prior to Closing Date; they will cooperatively act with respect to the programs, business and affairs of both United Way and 2-1-1.

8. Due Diligence. From the date of this Agreement through the Closing Date, each party may continue to perform its due diligence investigation of the other party and in the event that either party is unsatisfied with any portion of its due diligence investigation of the other party, upon written notice to the other party, such party may terminate this Agreement.

9. Representations and Warranties. Each party hereby represents and warrants to the other party as follows: (i) that it is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and is duly qualified to conduct its business in Pennsylvania and in any other jurisdiction where it may operate; (ii) the execution and delivery of this Agreement does not, and the fulfillment by such party of the terms, conditions, and provisions hereof, will not: (a) conflict with, or result in a breach of, any of the terms, conditions or provisions of, or constitute a default under its articles of incorporation or bylaws or any agreement or other instrument to which such party is a party or by which any such party's properties or assets are bound, or grant any other party the right to terminate an agreement with such party; (b) conflict with, violate or result in a breach of any law, administrative regulation or court decree applicable to such party; or (c) result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the properties or assets of such party; and (iii) such party has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement and subject to the terms of this Agreement, this Agreement constitutes a valid, binding and enforceable obligation of such party.

10. Miscellaneous.

a. Entire Agreement/Amendments This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof, and no prior oral or written representations, covenants or agreements between the parties with respect to the subject matter hereof shall be of any force or effect. Any amendments or modifications to this Agreement shall be of no force or effect, unless in writing and signed by both parties.

b. Governing Law This Agreement has been entered into in the Commonwealth of Pennsylvania, and all the terms and provisions hereof and the rights and obligations of the parties hereto shall be construed and enforced in accordance with the laws thereof.

c. Rescission At any time prior to the Closing Date, this Agreement may be rescinded or terminated by either party for any reason by a vote of such party's board of directors. The parties further acknowledge that the transaction contemplated hereunder is expressly subject to receipt of a no objection letter from the Office of the Attorney General of the Commonwealth of Pennsylvania and, if necessary, the Orphans' Court Division of the Allegheny County Court of Common Pleas.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement through their duly authorized representatives on the day and year first above written.

**United Way of Pennsylvania:**

**PA 2-1-1, Inc.:**

By: \_\_\_\_\_ By: \_\_\_\_\_