

Partnership to Align Social Care

A National Learning
& Action Network

Coffee and Contracts summary

Vetting contracts: Drafting, reviewing, and negotiating social care contracts

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Contract review process Reviewing and negotiating contracts requires collaboration. Using a stepped process, the contract owner pulls in internal and external stakeholders as needed.

It's helpful to use a checklist to review important contract terms:

[Partners-Contract-Terms-2024.pdf \(partnership2asc.org\)](#).

A couple of questions to keep in mind as your organization is beginning a contract review are:

1. Do the terms and requirements feel feasible for your organization or network?
2. Do the terms and requirements align with the mission and vision of your organization or network?
3. Who is an expert in this area and needs to weigh in on the contract terms?

Review the basics

- **Parties involved:** Identify all the individuals who need to be involved in the contracting and service delivery processes.
- **Term and termination:** Review how long the contract will last and the feasibility of terms. Also, understand how easily you can terminate the contract if the relationship does not work out well.
- **Indemnification:** Who is held responsible for any liabilities arising out of the contract.
- **Amendment and modification:** Understand the conditions that would allow the contract to be amended. For example, during the COVID pandemic Partners in Care met with their contract partners to discuss how the terms needed to change to move deliverables forward.

Collaborate with your subject matter experts

- **Scope of work:** Engage teams delivering care to understand if the scope of work is feasible for them to complete.

- **Payment terms:** Consult finance and care delivery teams to understand the time and resources needed for the payment process.
- **Marketing and publications:** Communications and Legal may need to be consulted on how to best adhere to guidelines for logos and trademarks of your partner.
- **Intellectual property:** Consult legal to understand ownership of services and licensing.
- **Confidentiality:** Involve your IT team to understand the requirements for coding and storing patient and member data.

Other considerations

- **Governing law:** Work with Legal to identify which jurisdictions will govern the services (i.e., state location) and consider options for governance (CBO location, payer location, neutral state).
- **Dispute resolution:** This is how contract disputes will be handled by both parties. A structured and staged dispute resolution process (e.g., information discussion, mediation, etc.) can help ensure that disputes are proactively dealt with.
- **Insurance requirements:** Based on the healthcare partner's requirements, the organization may need to invest in additional insurance coverage. Check with your insurance broker.
- **Miscellaneous:** The other terms that could impact your organization, for example:
 - *Staffing/certification/licensure requirements:* Identify the staffing needs required to execute the contract. For example, is hiring or additional resource allocation needed?
 - *Reporting requirements:* Identify what data you will need to report, how it is reported, and whether this is feasible for your organization to execute.
 - *Technology requirements:* Identify what technology you or your network organizations need to have in place to satisfy the partner's requirements

Contract negotiables vs non-negotiables

Both parties may need to compromise during the contract process. Before starting negotiations, consider what is most important to your organization and is not negotiable.

For example:

- **Non-negotiable:** The value and mission of the organization

- o Contracting is exciting, but before agreeing to all of your partner's terms, be mindful about your organization's values and push back against requirements that may compromise those values.
- **Non-negotiable:** Staff safety
 - o Your staff are your most valuable resource. Keep a keen eye out for any requirements that could put your staff at risk. Ensure language is included that states staff will not be liable for completing services when it puts their safety at risk.
- **Non-negotiable:** Minimum Volume
 - o Without sufficient volume, the contract will not be successful for the payer or the CBO.
- **Negotiable:** Network compliance
 - o CBO networks are diverse in expertise and level of infrastructure; this diversity is a strength but sometimes some network members may not be able to comply with the contract requirements. Ensure that all participating organizations can comply with the contract terms.
- **Negotiable:** Pricing
 - o As time passes, costs change. Pricing may need to be negotiated more than once to ensure the payment aligns with the cost of completing the work.
- **Negotiable:** IT and documentation
 - o Reviewing IT and documentation requirements is critical for the success of the contract. Be thoughtful about your organizational capacity to adhere to the requirements and provide feasible alternatives when needed.