



**CONTRACT BETWEEN**

**COUNTY OF ORANGE**

**AND**

**CALIFORNIA PHYSICIANS' SERVICE,  
DBA BLUE SHIELD OF CALIFORNIA**

**FOR**

**CLAIMS ADMINISTRATION FOR THE SELF-INSURED  
COUNTY OF ORANGE DENTAL PLAN**

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## CONTRACT

This Agreement to provide Claims Administration for the Self-Insured County of Orange Dental Plan, hereinafter referred to as “Contract”, is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California; hereinafter referred to as “County,” and California Physicians' Service, dba Blue Shield of California with a place of business at 601 12<sup>th</sup> Street, Oakland, CA 94607; hereinafter referred to as “Contractor,” with County and Contractor sometimes referred to as “Party”, or collectively as “Parties.”

### RECITALS

**WHEREAS**, Contractor responded to a Request for Proposal (“RFP”) for Claims Administration for the Self-Insured County of Orange Dental Plan as defined herein; and

**WHEREAS**, the Contractor responded and represented that its proposed services shall meet or exceed the requirements and specifications of the RFP; and

**WHEREAS**, the County Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract for Claims Administration for the Self-Insured County of Orange Dental Plan with the Contractor;

**NOW, THEREFORE**, the Parties mutually agree as follows:

### ARTICLES

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County will procure services for Claims Administration for the Self-Insured County of Orange Dental Plan from Contractor as further detailed in the Scope of Services, identified and incorporated herein by this reference as “Attachment A.”
2. **Compensation:** The Contractor agrees to accept the specified compensation as set forth in Attachment B. Compensation/Payment of this Contract, identified and incorporated herein by this reference, as full payment for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder.
3. **Term of Contract:** The initial term of this Contract is for three (3) years, effective on the date execution is completed by the Parties or on or about January 1, 2025, whichever date is later in time, and continuing for three (3) years from that date, unless earlier terminated by the County. The Contract Term may be renewed for up to two (2) additional consecutive one (1) year terms, upon the mutual written agreement of the Parties. The County does not have to give reason if it elects not to renew. Renewal of the Contract may require approval by the County Board of Supervisors. Permitted renewals of the Contract provided in this paragraph 3 shall not result in any change in any other term, condition or provision of this Contract.
4. **Entire Agreement:** This Contract, including its Attachments A through I and Exhibit 1, as they now exist or may hereafter be changed, modified, or amended, and which are attached hereto and incorporated herein by this reference, constitutes the entire Contract between the Parties with respect to the matters herein. There are no restrictions, promises, warranties or undertakings other than those set forth or referred to herein. No exceptions, alternatives, substitutes, understandings, agreements or revisions, whether oral or written, are valid or binding on the County unless authorized by the County in writing. Electronic acceptance of any additional terms, conditions or supplemental contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on the County unless accepted in writing by the County’s Purchasing Agent or designee.

5. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on the County unless authorized by the County in writing.
6. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
7. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
8. **Taxes:** The Contract provided does not contemplate any taxes, fees, other charges or offsets by any state or federal government which may, in the future, be assessed against Contractor on the basis of the benefit payments made on County's behalf under this Contract. In the event Contractor becomes liable for paying any such taxes, fees, other charges or offsets, on the County's behalf, including amounts assessed against Contractor under federal regulation, 42 CFR 411.24 (Medicare Secondary Payer), the County agrees to reimburse Contractor for the amount of tax, fee, charge or offset attributable to the benefits paid on the County's behalf. This obligation will survive termination of this Contract. Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
9. **Delivery:** Time of delivery of services is of the essence in this Contract. County reserves the right to refuse any services and to cancel all or any part of the services that do not conform to the prescribed Scope of Services (Attachment A).
10. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under the Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.
11. **Assignment or Sub-contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of the County's Program Manager, as identified below. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County's Program Manager shall be invalid and shall constitute a breach of this Contract. Irrespective of any assignment of subcontracting with respect to any portion of this Contract, Contractor shall remain fully responsible and liable for the performance of all services required herein. Notwithstanding the preceding provisions of this paragraph, (i) services to be performed for County under this Contract may be performed by personnel of Contractor or of any other entity that is controlling, controlled by, or under common control with, Contractor and (ii) Contractor may assign this Contract and all rights, duties and obligations hereunder to any other entity that is controlling, controlled by, or under common control with the Contractor that succeeds to the business of Contractor providing the services under this Contract. Notwithstanding this paragraph or any other terms or provisions set forth in this Contract or its attachments, none of the work done for the County, its employees, agents, directors, elected officials or their dependents as relates participant interaction may be performed outside the United States of America, with the exception of core Account Team Members as named in Staffing Plan, Attachment C, or otherwise approved by County, on an as needed basis.

In no case may participant specific data be sent to locations outside the United States of America. To the extent that non-core account team members, special project teams and the like are required to do work for the County outside the United States of America, data will not include participant data that will allow for personal identification either as a standalone data element or in combination, for example, social security number, date of birth, personal health information, and home addresses. In instances where previously identified core Account Team Members are required to access participant specific data, as approved by the County, on an as needed basis while outside the United States of America, data will be accessed and viewed only, and will not be stored, changed, or updated in any fashion.

12. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination laws or regulations including but not limited to Section 1741 of the California Labor Code.
13. **Performance:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other services performed by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the services; and, if permitted to sub-contract, shall be fully responsible for all work performed by subcontractors.
14. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as Account Manager and Key Personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction at no charge to County.
15. **Warranty:** Contractor expressly warrants that the services covered by this Contract: 1) will be performed in a timely, competent and professional manner, in accordance with highest industry standards, by duly qualified and experienced Contractor personnel possessing all relevant certifications, licenses and permits; 2) will conform to the specifications set forth herein and 3) are fit for the particular purpose intended. Acceptance of this Contract shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnities, as identified in paragraph 18 below and as more fully described in paragraph 18, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, regulations, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
16. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right or trade secret right

of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph 18 below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.

17. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph 18 below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
18. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.
19. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to carry all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage current, provide Certificates of Insurance, and endorsements to the County during the entire term of this Contract.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall carry appropriate lines of insurance and limits for their work. Contractor shall not allow subcontractors to work if subcontractors have an inappropriate level of coverage required by the Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars \$50,000 shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from Contractor. If Contractor is self-insured, Contractor will indemnify the County for any and all claims resulting or arising from Contractor's services in accordance with the indemnity provision stated in this contract.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

#### **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned or scheduled, non-owned and hired vehicles	\$1,000,000 combined single limit each accident
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per accident or disease
Professional Liability	\$1,000,000 per claims-made or occurrence \$1,000,000 aggregate
Network Security & Privacy Liability	\$5,000,000 per claims-made
Employee Dishonesty (Client Coverage)	\$2,000,000 per occurrence

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provide Follow Form coverage.

### **Required Coverage Forms**

The Commercial General Liability coverage shall be written on occurrence basis utilizing Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

### **Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** as Additional Insureds, or provide blanket coverage, which will state ***As Required by Written Contract***.
- 2) A primary non-contributing endorsement using ISO CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, employees and agents*** or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT***.



The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement naming the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** as Additional Insureds for its vicarious liability.
- 2) A primary and non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

All insurance policies required by this Contract shall waive all rights of subrogation against the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** when acting within the scope of their appointment or employment.

The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance.

Contractor shall provide thirty (30) days prior written notice to the County of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

If Contractor's Professional Liability and/or Network Security & Privacy Liability are "Claims-Made" policy(ies), Contractor shall agree to the following:

- 1) The retroactive date must be shown and must be before the date of the Contract or the beginning of the Contract services.
- 2) Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Contract services.
- 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the contract services, Contractor must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination of the Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the Term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such

changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

20. **Emergency/Declared Disaster Requirements:** In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County's needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor's supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number. Article 20 does not invalidate Contractor's rights under the Force Majeure provision of this Contract (Article 36) or any force majeure terms included in Contractor's performance guarantees (Attachment D).
21. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the Term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
22. **Contractor Personnel:** Contractor warrants that all Contractor personnel engaged in the performance of work under this Contract shall possess sufficient experience and/or education and the required licenses set forth herein in good standing to perform the services requested by the County. County expressly retains the right to have any of the Contractor personnel removed from performing services under this Contract to the County. Contractor shall effectuate the removal of the specified Contractor personnel from providing any services to the County under this Contract within one business day of notification by County. County shall submit the request in writing to the Contractor's Account Manager. The County is not required to provide any reason, rationale or additional factual information if it elects to request any specific Contractor personnel be removed from performing services under this Contract.
23. **Contractor's Account Manager and Key Personnel:** Contractor shall appoint an Account Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Account Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Program Manager, which consent shall not be unreasonably withheld.
- The Contractor's Account Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project timelines. The County's Program Manager shall have the right to require the removal and replacement of the Contractor's Account Manager from providing services to the County under this Contract. The County's Program manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within five (5) business days after written notice by the County's Program Manager. The County's Program Manager shall review and approve the appointment of the replacement for the Contractor's Account Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Account Manager from providing further services under the Contract.
24. **County's Program Manager:** The County shall appoint a Program Manager to act as liaison between the County and the Contractor during the Term of this Contract. The County's Program Manager shall coordinate the activities of the County staff assigned to work with the Contractor.

25. **Reports/Meetings:** The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in this Contract. The County's Program Manager and the Contractor's Account Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Account Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract. Contractor shall provide reasonable travel arrangements, i.e., transportation and lodging, at Contractor's expense for up to two (2) County staff to travel annually to Contractor's locations for business purposes, as agreed upon by the Parties.
26. **Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole properties of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County. Contractor's agreement to Article 26 is contingent upon any limitations imposed on Contractor under its licensing agreement with the Blue Cross Blue Shield Association. Furthermore, Article 26 does not create ownership rights for the County nor any obligations for Contractor that would violate this licensing agreement between Contractor and the Association.
27. **Title to Data:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
28. **Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored by Contractor in a manner reasonably accessible to the County of Orange for a period of ten (10) years after final payment is received from the County.
29. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to audit records and interview staff of any subcontractor related to the performance of this Contract and provide the County with audit findings and remediation results on an as needed basis. If the information provided by Contractor in regards to any audit of a sub-contractor is noted as being insufficient by the County, Contractor agrees to confer with the County and work with the sub-contractor to provide the further information requested by the County.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the County's Program Manager.

30. **Publication:** No copies of schedules, written documents, and computer based data, photographs, maps or graphs, resulting from performance or prepared in connection with this Contract, are to be released by Contractor and/or anyone acting under the supervision of Contractor to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both Parties.
31. **Conflict of Interest:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents and subcontractors associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.
32. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of this Contract or any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
33. **Breach of Contract:** The failure of the Contractor to comply with any of the terms, provisions, covenants or conditions of this Contract shall constitute a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
- a. Terminate this Contract immediately, without penalty to the County;
  - b. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
  - c. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
  - d. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.

For the avoidance of doubt, in no case shall the County be relieved of its obligation to fund benefit claims in accordance with the terms of Attachment H.

34. **Disputes:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If a dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Account Manager and the County's Program Manager, such matter shall be brought to the attention of the Purchasing Agent by way of the following process:
- a. The Contractor shall submit to the Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
  - b. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to this Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the amount for which the Contractor believes the County is liable.
  - c. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of his Contract, including the provision of

services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County's Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in Section 32, Termination, herein.

35. **Orderly Termination:** After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
36. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.
37. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
38. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
39. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given herein shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the County's Program Manager and Contractor's Account Manager routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

County: Program Manager, Kellie Aumond  
Human Resource Services/Employee Benefits  
400 W. Civic Center Drive, Suite 111  
Santa Ana, CA 92701

cc: Human Resource Services/Employee Benefits  
Attn: Melvin Chua, Deputy Purchasing Agent

400 W. Civic Center Drive, Suite 111  
Santa Ana, CA 92701

Contractor: California Physicians' Service  
dba Blue Shield of California  
601 12<sup>th</sup> Street  
Oakland, CA 94607

40. **EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a "service provider" to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as "an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California."

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at [http://www.edd.ca.gov/Employer\\_Services.htm](http://www.edd.ca.gov/Employer_Services.htm).

41. **Change Of Ownership/Name, Litigation Status, Conflicts with County Interest:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the County

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts,

entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

42. **Precedence:** The Contract documents herein consist of this Contract and its attachments. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the articles of this Contract, and then the attachments and exhibits.
43. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
44. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
45. **Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
46. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.
47. **Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.
48. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
49. **Survival:** Notwithstanding any provision to the contrary herein, the provisions of paragraphs 15, 16, 17, 18 and 19 shall survive the termination of this Contract.
50. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

51. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph 18 above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
52. **Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.
53. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
54. **Incorporation:** This Contract and its Attachments A through I and Exhibit 1 are attached hereto and incorporated by reference and made a part of this Contract.
55. **Health Insurance Portability and Accountability Act (HIPAA):** Contractor understands and agrees that the disclosure of PHI by a health care component of a covered entity is subject to the HIPAA Privacy Rule, Contractor understands and agrees that it is a Business Associate of County for the purposes of the HIPAA Privacy Rule. Therefore, the provisions set forth in Attachment G hereto shall be operative and control the Business Associate relationship of the parties. Nothing in Attachment G shall be considered a waiver of the limitation on subcontracting as set forth in this Contract.
56. **PPO Network Changes:** Contractor agrees to furnish on the effective date, and at reasonable times thereafter, a directory of Contractor's Dental network providers who have agreed to provide the services of the preferred provider organization (PPO). It is understood that the providers listed in that directory may change from time to time and the Contractor reserves the right to update the directory without prior notice to the County. However, the Contractor agrees to give notice to the County within a reasonable time of any network provider's termination or breach of contract, or inability to perform, which will materially or adversely affect the County.

(SIGNATURE PAGE FOLLOWS)



**CONTRACT SIGNATURE PAGE**

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

**CALIFORNIA PHYSICIANS' SERVICE, DBA BLUE SHIELD OF CALIFORNIA\*:**

Sandra Clarke EVP, Chief Operating Officer

Print Name Title  
DocuSigned by: Sandra Clarke 5/23/2024  
Signature Date  
DB587334B4CD4D9...

Ken Lautsch VP and GM of Premier Accounts

Print Name Title  
DocuSigned by: Ken Lautsch 5/23/2024  
Signature Date  
56A37B9F92844F0...

\* If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

\*\*\*\*\*

**COUNTY OF ORANGE**  
A political subdivision of the State of California

Deputy Purchasing Agent  
Print Name Title  
Signature Date

Approved by Board of Supervisors on: Date \_\_\_\_\_

APPROVED AS TO FORM:  
DocuSigned by: Nikhil Daftary  
Deputy, Office of County Counsel  
Orange County, California  
4AC68DDE8C37477

## ATTACHMENT A

### Scope of Services

**I. Definitions:** For purposes of this Contract, including all Attachments and Exhibits, the parties agree to the following definitions:

1. *“The Board”* The Board of Supervisors for the County of Orange is the legislative and policy making body of the County and is responsible for the review and approval of all service agreements and/or contracts with the County.
2. *“Employee Benefits Division”* A Division of Human Resource Services of the County responsible for the design, implementation and on-going administration of the County’s various employee benefit plan and programs.
3. *“Human Resource Services (HRS)”* The County’s HRS is comprised of various divisions and sections that provide a wide array of personnel and employee services to County departments and agencies. The HRS Director reports directly to the County Executive Officer (CEO).
4. *“TPA”* Third Party Administrator(s) for the County’s self-insured PPO dental plan.
5. *“Benefits Administrator”* shall be defined as the County’s Benefits Center for employees, which provides full Benefits administration such as benefits eligibility and enrollment, currently provided through Alight Solutions LLC.
6. *“Claim”* shall be defined as one or more documents related to accident or treatment that are submitted for reimbursement under the Plan and received together in batch plus any additional documents received at a later time in support of the original submission.
7. *“Claimant”* are certain County employees and their dependents who are Participants under the Plan.
8. *“Claim Form”* includes, but is not limited to a Contractor’s claim form, or information in writing from Claimant or Provider that is sufficient to accurately process a claim, including the services rendered, the date the services were rendered, the charge for each service, billing address, phone number, Provider’s name and signature of licensed dental Provider who provided the services.
9. *“Coinsurance”* or *“Copayment”* shall mean a percentage of cost or dollar amount that a Participant is responsible for paying for a service or supply based on the County’s Plan Design Document, and includes, but is not limited to coinsurance, copayment and deductible.
10. *“County Bank”* means the bank selected by County.
11. *“Covered Person”* or *“Participant”* shall mean any eligible covered person under the Plan, including dependents of the covered employee.
12. *“Explanation of Benefit”* (EOB) is a periodic summary Statement of Plan and Participant paid amounts sent to Participants.
13. *“IVR”* is Interactive Voice Response and shall mean any automated voice response system utilized by Contractor for incoming calls from plan participants.

14. “*Plan*” means the self-funded PPO Dental Plan established by County for eligible employees and their dependents known as the “County of Orange Dental Plan.”
15. “*Plan Administrator*” is the County Human Resource Services Director or his or her designee.
16. “*Plan Benefit Account*” means the Contractor Bank account established for payment of County Plan(s) for dental care benefits and from which Provider payment checks are issued by the Contractor.
17. “*Preferred Provider Organization*” or “*PPO*” means the Network of preferred providers offered by Contractor, including any leased network.
18. “*Provider*” means a dental care provider, who, through a contract with Contractor or dental provider network or organization with whom Contractor has contracted, has agreed to be a member of Contractor’s PPO network.
19. “*Provider Agreement*” means Contractor’s agreement with a dental care provider or dental provider network or organization, whereby Providers have agreed to be members of Contractor’s PPO network.
20. “*Utilization Review*” means the services provided by Contractor as described in this Attachment A-Scope of Services.
21. “*Working Days*” are all calendar days except Saturday, Sunday, and legal holidays, as recognized by the Plan Administrator and Contractor.

## **II. Scope of Services for the County of Orange County of Orange Dental Plan**

### **Objectives**

The Contractor shall perform the required services of this Attachment A – Scope of Services to accomplish the following objectives:

1. Ensure that claims are processed in compliance with Plan provisions in an expeditious manner.
2. Ensure that claims are processed in compliance with Preferred Provider negotiated rates (where applicable) and benefit approval decisions in accordance with program requirements to maximize the cost management savings of these programs.
3. Ensure that Plan Participants receive high quality customer service and access to information relative to understanding and utilizing their Plan benefits.

### **Required Responsibilities and Services**

The required services for Claims Administration for the County of Orange self-insured PPO dental plan are contained in the Contract, Attachments A through I and Exhibit 1.

## **III. County Responsibilities**

County shall:

1. Promptly pay the County’s self-funded claim liability under this Contract as approved claims are presented by Contractor.

2. In addition to Plan documents, which Contractor acknowledges that it has received and reviewed, furnish the Contractor with a detailed written description of Plan coverage.
3. Furnish the Contractor with information from which the Contractor can determine Claimant eligibility under the Plan.
4. Authorize Contractor to enter into Provider Agreements and amendments thereto, on behalf of the County, which Provider Agreements may, among other provisions, specify fee amounts which shall be accepted by Providers as payment in full for dental services provided to Covered Persons under the Plan.
5. Be bound by all terms and conditions of Provider Agreements, which apply to Contractor and its network only if required under State or Federal Law. (For example, California Health and Safety Code Section 1375.7(d)(1), California Business and Professions Code section 511.3 and California Insurance Code Section 10178.4). The County must receive advance written notice from Contractor of Provider Agreements containing terms and conditions that materially deviate from Contractor's standard Provider Agreement.
6. Sufficiently fund the Plan Benefit Account to meet the County's obligation to pay Providers based on the payment amount specified in the applicable Provider Agreement and to allow Contractor to process claim payments in accordance with the terms of the Contract.

#### **IV. Contractor Responsibilities**

##### **A. Facilities and Staffing**

Contractor shall:

1. Maintain adequate staff in claims offices for the effective administration of the Plan claims processing and payments. The staffing shall include a Designated Team for the County account. The Designated Team will be supplemented as needed to meet the performance requirements of the Contract. The Designated Team will be maintained so that 75% of the staff have 2 or more years of relevant experience and have been specifically trained on the unique provisions of the County Plan.

Contractor agrees to staff the Designated Team at a level sufficient to routinely have:

- a. 95% of Plan claims processed through a combination of auto-adjudication and/or the Designated Team; and,
  - b. 85% of customer service calls handled through the Designated Team.
2. Provide a toll free number routed to the County's Designated customer service team for County Participants; a voice response system with a user-friendly menu and alternative language options (or access to language translation services); system availability 24 hours a day/7 days a week/365 days a year (excluding scheduled downtime); and a Post Office Box for submission of County claims, as part of the base administrative fees with no additional cost to the County.
  3. Maintain Customer Service hours for the Plan from at least 6:00 a.m. to 8:00 p.m. (Pacific Time) Monday through Friday except for the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Thanksgiving Day and the day after, Christmas Eve, and Christmas Day.

4. Ensure that participants with limited English proficiency and those who are deaf or hearing impaired have access to communication services that enable participants to utilize the phone lines.
5. Conduct prepayment audits of new claim team members ensuring that 100% of new claim team member's work is audited for 30 days after training.
6. Withhold the addition of other new accounts serviced by the County's account team until April 1, 2025, to facilitate successful implementation of the County account.
7. Should Contractor be merged with, acquired by or acquire another entity during the Contract Term; Contractor shall pay for all of the County's transition costs if there is a need to migrate the County Plan, including, but not limited to, reimbursement of County programming and communications costs and pre and post implementation audit costs if a change in claims processing and/or eligibility systems occurs.

## **B. Claims Processing**

Contractor shall:

1. Supervise and administer the payment of claims in accordance with the Plan Document and act as the representative of the County with regard to claims administration and review. Services provided by Contractor shall cover Claimants' benefits provided in the State of California as well as outside the State of California.
2. In accordance with the requirements set forth in Attachment F adjudicate Plan claims in an expeditious and courteous manner, responding to each claim with a benefit determination within 30 calendar days of receipt of the claim. Provide Plan Participants with an explanation of benefits for each and every adjudicated claim, including claims that are ineligible.

The explanation of benefits shall include at a minimum, a listing of billed charges, the charges as adjusted under a Preferred Provider Agreement, charges not eligible, charges paid, deductible applied, calculation of rate paid, listing of payees and amounts, the amount to be paid by the Participant including the amount of any balance billing liability, and the reason for ineligibility or denial if applicable. At County's request, Contractor will customize EOBs for County's specific requirements and will include the County's logo and County specific website.

3. Process out of network claims from providers using a Usual, Customary and Reasonable (UCR) amount equal to the 90<sup>th</sup> percentile of recorded charges for each procedure or service in a specific geographic area.
4. Provide claims information services to Plan Participants including a designated Benefits Specialist to research and resolve, to the satisfaction of the County, benefits and/or claims inquiries and complaints submitted by the Participants. Claims Service Representative should have the ability to gather and analyze data, create a historical picture, including a timeline of claim activity for individual Participants, and develop appropriate correspondence for complicated claim issues that are appealed to the County.
5. Take reasonable and effective precautions to prevent payment of invalid, duplicate and fraudulent claims with respect to the Plan.

6. Coordinate benefit payments with other group insurance plan in which employees or dependents may be enrolled to protect against duplication of benefits or excessive payment of claims.
7. Maintain accepted professional practices for the control and efficient payment of claims.
8. Verify the eligibility of all Claimants for benefits under the County's Plan from eligibility information provided by the Benefits Administrator.
9. Calculate and provide pre-determination of benefits upon request.
10. Compute and pay claims for dental benefits from funds provided by the County in accordance with the Plan documents established and/or amended by the County.
11. Provide bank reconciliation services and produce checks and/or electronic fund transfers for claims and indicate that Contractor administers the Plan. Any interest earned on County funds remains with the County.
12. Notify the Benefits Administrator of deceased Covered Persons when Contractor receives notification of such death via telephone call with Customer Service or Utilization Management or via claim submission.
13. Maintain proper controls to avoid overpayments with respect to the Plan.
14. Provide, upon request, information on claims to assist the County in resolving problems of Participants with claims and to assist in preparing litigation.
15. Perform a pre-payment audit of claims for accurate and correct application of dental benefits, for dental checks or electronic fund transfers in excess of \$1,500.
16. Provide an effective, monthly quality review of 100 randomly selected claims processed under the Plan as agreed upon by the Contractor and the County.
17. Provide for adjustment in the event a Claimant has been paid less than the amount provided by the Plan, and for collection of overpayments in the event the Claimant has been paid more than the amount provided by the Plan. The method of collection for overpayments must be approved by the County.
18. Distribute, upon request, informational material furnished by the County with the Explanation of Benefits.
19. Print and pay the cost of all necessary Plan claim forms, including Plan benefit account checks.
20. Review and process all Participant and provider first-level and second-level appeals, grievances and complaints within 30 days each. Provide External Reviews to County participants as specified in the Plan Document. Maintain and provide to the County on a monthly basis a log of all first and second level County appeals that includes, at a minimum, the Participant's name and ID number, the nature of the appeal, grievance or complaint, the date of the appeal, grievance or complaint was received, the outcome, and the date of Contractor's review of the appeal, grievance or complaint was completed and communicated to the Participant.

21. Continue the administration of claims incurred prior to the effective ending date of this Contract for a period of twelve months after the termination date (Run-Out Claims) including but not limited to claims processing, claims reporting, bank reconciliation reports, claim appeals, etc.
22. Conduct plan testing of all non-standard benefit provisions, as defined by the County and Contractor, for the County's Plan in conjunction with any significant claims processing software upgrade or system/plan maintenance to identify the impact, if any, the upgrade or maintenance had on the accuracy of claims processing, and report results to the County. Plan testing must occur prior to claims processing resuming under the new or modified system. Significant is defined as any upgrade or maintenance item that would be anticipated to impact County non-standard provisions. Non-standard provisions will be mutually identified during the implementation process. All other upgrades or maintenance would be reviewed by Contractor during regular monthly performance audits.
23. Process and flag claims potentially involving third party liability and send appropriate claims to the third party to pursue recovery. Review all claims data to identify and to pursue potential third-party liability claims.

### **C. Customer Service**

Contractor shall:

1. Provide a dedicated Customer Service team to quote benefits, provide claim status information, assist in the filing of appeals, and related claims processing issues.
2. Provide, upon request by Plan Participants, claim forms for those without Internet Access.
3. Provide on Contractor's web site access to custom County web page containing links to PPO provider directories, eligibility and Plan benefit information, claim status, the ability to request replacement ID cards and email a Customer Service Representative.
4. Provide on-line verification of eligibility to dental care providers on Contractors' website.

### **D. Dental Management Program / Utilization Review**

Contractor shall:

1. Provide a comprehensive dental management program (pre-authorization and dental utilization review), including: (1) pre-treatment review to determine, before treatment, the dental necessity of each proposed procedure, as well as Plan coverage parameters; and (2) a retrospective evaluation or utilization review of the appropriateness of the treatment, dental codes used, and allowable fee after submission of the claim but prior to payment.
2. Provide minimum Case Management/Utilization Review office hours from 8:00 a.m. to 5:00 p.m., Monday-Friday (PST).

### **E. Preferred Provider Network**

Contractor shall:

1. Make its PPO network of Providers available to Participants in the Plan. Contractor shall require Providers to accept the Contractor's reimbursement amount as payment in full less any patient responsibility (e.g., deductibles and coinsurance) for covered services rendered by Providers to Participants under County's Plan. Contractor's negotiated rate will result in Plan

discounts.

2. Provide and maintain its PPO network information on Contractor's website.
3. Provide appropriate referrals to the website or provide assistance in locating a PPO provider upon request by a Participant.
4. Provide the County with management reports similar to those listed below on utilization of the PPO: (Such reports shall be based on data available to the Contractor). Reports shall be presented quarterly.
  - a. Dental Experience Report / Executive Summary
  - b. Dental Utilization by Service Category
  - c. Provider Report by PPO Indicator and Provider Type
  - d. The reports described shall be provided electronically and in hard copy.
5. Assist the County in interpreting the reports and shall make recommendations for improving cost-effective utilization of dental care for Participants.

#### **F. Eligibility Administration**

The Benefits Administrator on behalf of the County will determine participant eligibility and provide Contractor with eligibility records. Contractor will be entitled to rely on the eligibility information the County provides and will not maintain or independently verify any portion of the Plan eligibility records. The Benefits Administrator, on behalf of the County, will provide Contractor with changes in enrollment as soon as practical in the month in which a change in eligibility occurs, but generally no later than sixty (60) calendar days after the effective date of change. Changes in eligibility will be effective on the first of the month, whenever possible. Eligibility information will include new Plan Participants and effective dates of coverage, changes in types or levels of coverage for existing Plan Participants and effective dates of termination of coverage.

As Plan Administrator, the County will be responsible for billing and compliance with other administrative requirements of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272 ("COBRA"), as amended, and will include qualified beneficiaries eligible to participate under the Plan pursuant to COBRA in the eligibility information provided to Contractor.

Contractor shall:

1. Accept and load eligibility information weekly, within 48 hours of receipt from the Benefits Administrator. Contractor shall accept eligibility electronically in the County's current ANSI 834 formatted file and future formats as required by Federal laws and regulations. Provide industry standard file discrepancy reports within 48 hours of receipt of the weekly eligibility file and work with the Benefit Administrator to research and resolve file discrepancies in a timely manner.
2. Contractor shall notify County or its designee, if the eligibility file is not received by the due date identified on the file schedule provided by the County' Benefit Administrator.



3. Contractor shall notify County or its designee prior to the eligibility update application, of any material errors or coding problems on the eligibility file that exceeds agreed upon thresholds.
4. Provide urgent verification of coverage and/or eligibility updates within one (1) business day as directed by the Benefits Administrator when needed to provide access to care in between eligibility file transmissions.
5. Reconcile enrollment and administrative fee of Plan Participants with the Benefits Administrator records monthly. Correct information to match the County enrollment information and maintain appropriate claims payment history.
6. Contractor shall perform quarterly full-file reconciliations with the Benefits Administrator.
7. County self-bills its current ASO fees. Contractor shall receive rosters of enrollees for billing purposes and address any billing discrepancies with the Benefits Administrator.
8. Only accept eligibility changes based on information received from the County's Benefits Administrator or Authorized County Benefits team employees for urgent situations.
9. Develop, print, and mail plan identification cards within seven (7) working days of eligibility updates.

#### **G. Banking**

Contractor shall:

1. Establish and maintain Account with or agreed to between Contractor and County to fund all claim costs in accordance with the Funding and Banking Arrangement attached hereto as Attachment H.
2. Contractor's Bank must be members of the state or local ACH for debits to be processed according to National Automated Clearing House Association (NACHA) rules and regulations.
3. Furnish bank account activity and check and EFT registers, including reconciliation of account on at least a monthly basis, in a format acceptable to the County.
4. Issue annual 1099 forms to providers using Contractor's Tax ID and reconcile any discrepancies with the 1099s directly with the Internal Revenue Services, if necessary.
5. Provide a report of all uncleared checks and the amounts as of June 30<sup>th</sup> of each year, within five business days after June 30<sup>th</sup>.
6. California state law usually does not require escheatment of unclaimed participant monies for local government plan. Contractor agrees to only escheat unclaimed monies to the State if legally required and with the approval of the County.

#### **H. Management Information Reports**

Contractor shall:

1. Prepare and submit to the County not later than the 20<sup>th</sup> day of each month a Dental Paid Claims analysis showing monthly and year to date amounts.

County will provide designation of enrollment in the reporting groups for the claims reporting. Account structure may be modified during the 2025 implementation process or during the term of this Contract, as needed.

2. Prepare and submit at the Plan Administrator's request standard Dental management reports to be agreed upon by the Contractor and the County, which shall include, but are not limited to the types of reports listed below:
  - a. Executive Summary
  - b. Monthly Claims Lag Analysis
  - c. Monthly Pended Claims
  - d. Reasonable and Customary Savings Report - Quarterly
  - e. Daily Check and Electronic Funds Transfer Register
  - f. Dental Utilization Summary – Quarterly
  - g. Population Utilization Report - Monthly
  - h. Year-end Employee and Dependent Claims Report (Required)
  - i. Claims Turn Around Time
  - j. Customer Service / Member Satisfaction Performance Reports
  - k. Performance Guarantee Reports – Monthly and Quarterly
3. County will provide designation of enrollment in the reporting groups for the claims reporting.
4. Contractor shall provide all reports, either through on-line access and/or electronic format, within 20 days following the close of the applicable reporting period.
5. Contractor shall work with the County to customize a monthly reporting package that meets the needs of the County. Final Standard Reporting Package shall be mutually finalized in writing no later than November 30, 2024.
6. For purposes of Ad-Hoc/Custom reporting, including obtaining information or custom formatting or analysis requiring specific programming, Contractor shall provide 75 hours of report programming annually at no additional cost. Ad-Hoc/Custom reporting costs beyond the 75 hours of report programming shall be billed as noted in Attachment B.
7. Contractor shall provide the on-line reporting capabilities of a data warehouse system, which provides a comprehensive set of reports profiling the County's membership and utilization.
8. Contractor shall provide a reporting download feature.

#### **I. Contract Administration and Account Management**

Contractor shall:

1. Meet with the County on a biweekly basis from January 1, 2025, through June 30, 2025, and on a monthly basis thereafter, to discuss current issues, new procedures, etc. Contractor attendees shall include: Claims Manager, Claims Supervisor, Customer Service Manager, Customer Service Supervisor, Ombudsman/Claims Service Representative, and Account Manager.
2. Provide the County with a custom Administrative Manual consisting of policies and procedures used by Contractor to administer the Plan within thirty (30) days of the effective date of the Contract. Update the Administrative Manual and provide updates to County within thirty (30) days of any changes in policies and/or procedures.
3. Act as the Plan's Fiduciary in all matters related to Claims Administration (including first level and second level appeals) under the scope of this Contract, as specified in Attachment F. After a Plan Participant has completed the first level appeal process offered by Contractor, the Participant may submit a second level appeal or request an external review as specified in the Plan Document
4. Contractor shall:
  - a. Provide an account management team that is experienced in services similar to County's, trained in the County's Plan issues, accessible to the County geographically and with sufficient capacity and authority to respond to the County's issues in a timely manner.
  - b. Provide an Account Manager as primary point-of-contact for day-to-day communications with the County and have an Account Assistant Manager and back-up plan when the primary person is unavailable.
  - c. Provide an escalation process to assist in matters that are unable to be resolved at the account team level.
  - d. Provide County administration 30 days advance notice of any planned change in the primary account manager.
  - e. Provide the County administration the right to interview and agree to the intended replacement of the primary account manager. The County shall provide written approval of all proposed replacements.
  - f. Provide access to an electronic tracking and resolution log of the County issues.
  - g. Provide documentation of a process for prompt issue resolution in the event of a failure to perform a required service.
  - h. Attend monthly teleconferences and in person quarterly and annual program reviews on-site as requested by the County to review Plan benefit performance, clinical issues, new therapeutic options, programs, financial results and servicing of County's account.
  - i. Members of the Account Management Team shall respond to all account inquiries from the County staff within one (1) business day.
  - j. The assigned Account Management team shall review the County's Plan Document for accuracy and document any changes that occur each year as part of the base administrative fees and at no additional charge to the County.

**J. Retention and Audit**

Notwithstanding any provision to the contrary in this Contract, Contractor shall:

1. Store and maintain claims records safely for a minimum of five (5) years beyond the end of the calendar year in which claim is made, or a longer period of time, as required by law, and necessary in the case of litigated claims.
2. Assist County with information necessary to perform periodic audits of fiscal procedures and claims processing and respond to all audit recommendations as requested by the County.
3. Be subject to periodic audits of the claims administration activity performed by Contractor, conducted by the County or its designee. The scope and timing of the audits will be determined prior to the commencement of the audits. Following the filing of the report of findings and after a reasonable period has elapsed to test the implementation of corrections and/or recommended actions; County may elect to conduct follow-up audits.
4. County shall notify Contractor of intent to audit and the time periods in which audit staff will conduct the audit. Notice will be given of intent to audit at a minimum of fifteen (15) days prior to the beginning of the audit. With the notice of intent to audit, County will inform Contractor of the purpose and scope of the audit.
5. Make workspace available and produce all records and materials necessary for the work of the audit staff.
6. Provide, upon the identification of the audit sample by County or its designee, all claim records and related documentation requested for the audit. If, in the process of the audit, County or its designee needs additional documentation, the same standards for furnishing such documentation shall apply.
7. Provide reasonable travel arrangements, i.e., transportation and lodging at Contractor's expense, for County Auditor-Controller staff or designee for purposes of conducting the audits. Amount not to exceed \$5,000 throughout the Term of this Contract.
8. County shall be responsible for the cost of audit fees for post-implementation audits, excluding travel, as noted above. The first post-implementation audit shall commence no later than 120 days following the end of the first contract year. Audits will be conducted annually thereafter at the discretion of the County.
9. Provide Recovery Status reports monthly for recovery of all audit errors that resulted in claim overpayments. Contractor shall reimburse the County the full value of all audit error claims overpayment recovery.
10. Initiate correction of all underpayments within five (5) calendar days of identification by either Contractor during normal course of business or by the County through an independent audit.
11. Initiate recovery of all provider overpayments within 14 calendar days of identification of overpayment by either Contractor, during normal course of business, or by the County through an independent audit. For those overpayments that cannot be recovered from providers via deduction from next payment to the provider, Contractor will send follow-up requests at 30-day intervals until overpayment is recovered. Should Contractor elect to utilize the services of an external vendor for overpayment recoveries, any costs (contingency fees) associated with overpayment recovery efforts by the external vendor will be absorbed by Contractor as a cost

of doing business. Contractor shall reimburse the County the value of overpayments not recovered due to Contractor's failure to initiate recovery as outlined above.

12. Consult with the County prior to initiating overpayment recovery efforts against a Plan member, within 14 calendar days of identification of overpayment by either Contractor during normal course of business or by the County through an independent audit.
13. Annually provide County with detailed back-up documentation on a County-selected sampling of Contractor's self-reported Performance Guarantee results for the purposes of County's validation.
14. Annually, provide the County with Contractor's audited SOC 1 – Type 2 report (Service Organization Controls).

#### **K. Implementation and Transition**

Contractor shall:

1. Develop, in collaboration with the County, customized dental identification cards for distribution to Plan Participants via postal mail.
2. Develop, in collaboration with the County, a dedicated webpage on Contractor's Website to contain County specific plan and claims information and services such as contacting customer service and requesting identification cards.
3. Develop electronic eligibility interfaces necessary to receive eligibility information in the format currently provided by the County's Benefits Administrator.
4. Update eligibility and mail new Dental identification cards to all Plan Participants by December 13, 2024.
5. Coordinate with incumbent vendor on any files needed to support transition.

#### **L. Data and Systems**

1. Contractor will not modify any operational or clinical program or process that substantially impacts the services Contractor provides to County during the Term of this Contract without the prior notification and approval of the County.
2. Contractor shall accept electronic data transfer and administer membership information in compliance with HIPAA standards for privacy, security and electronic data interchange.
3. Contractor will adopt and implement written confidentiality policies and procedures in accordance with applicable law to ensure the confidentiality of member information used for any purpose.
4. Contractor will agree to not use or further disclose protected health information (PHI) other than as permitted or required by the Business Associate Agreement, Attachment G, or as required by law.
5. The Contractor agrees to:

- a. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits;
  - b. Report to the plan sponsor any security incident (within the meaning of 45 CFR 164.304) of which Contractor becomes aware; and,
  - c. Ensure that any Contractor employee or agent, including any subcontractor to whom it provides PHI received from, or created or received by the Contractor agrees to implement reasonable and appropriate safeguards to protect such PHI.
6. Contractor shall notify the County immediately upon identification of system-related problems, programming problems or data transfer problems. The Contractor shall make every effort necessary to correct such problems within 48 hours in order to minimize any disruption to participants.
  7. Contractor shall maintain a disaster recovery plan that contemplates a natural or unnatural disaster, cybersecurity incidence response, or national emergency, enabling Contractor to continue to provide core dental services using alternative sites and locations as reasonably necessary and appropriate.
  8. Contractor will maintain and update sufficient documentation (such as Excel spreadsheets) to support the correct set-up of Contractor's claims processing systems in conformance with the County's Plan Design and subsequent Plan changes. System changes resulting from Plan Design changes shall be based upon receipt of signed documentation from the client.
  9. Contractor will adhere to all best practices related to Cybersecurity as required by the National Institute of Standards and Technology (NIST) CSF Framework, including by not limited to documentation, annual risk assessments, relative annual audits, data access controls, timely security reviews and training, and development of a Secure System Development Life Cycle Program.
  10. Contractor will encrypt all data, stored and in transition.
  11. Contractor will respond to any past cybersecurity incidents with timeline notification to the County and a clear action plan for communication to impacted members.

#### **M. Transition Responsibilities upon Termination**

1. Upon termination of this Contract, the Contractor will cooperate with the County in an orderly transfer of administrative responsibilities and records to the new contractor and continue to provide all ongoing services through the termination date of the Contract. If County chooses a mid-year transition, County and Contractor shall mutually agree upon a date to transfer all ongoing and historical County Participant data.
2. The Contractor shall provide the following at no additional cost:
  - a. Provide all necessary data to the new Claims Administrator, including claim history and accumulators for all members in the format used by the Contractor. Contractor agrees to transfer data -within 30 days so the new Claims Administrator can upload and test data prior to the start of the new contract implementation, including correcting any errors discovered during testing.

- b. Participate in conference calls with the new vendor to ensure coordination and fulfillment of transition responsibilities. Provide a single point of contact for such planning meetings. Point of contact to prepare for and participate on a weekly basis throughout transition process. Contractor shall provide staff, as well as preparation and weekly meetings over the course of the transition to the new vendor.
- c. Finalize all appeals on hand. Should some appeals result at a later date, Contractor agrees to review the appeals for claims incurred during the contract period, and coordinate with the County.
- d. At termination of Contract, County shall own any requirements documents that Contractor provides. County shall maintain the confidentiality of Contractor proprietary information per the terms and conditions of Section 20. Confidentiality. County shall provide new Claims Administrator with all rules and processing guidelines on hand.

## **N. Other**

Contractor shall:

1. Assist County's legal counsel in the preparation and conduct of any litigated cases or claims and pursuit of actions of fraud or misrepresentation by Participants or Providers of service during the contract term and for a period of two years following termination of the contract.
2. Assist the County in the review, modification or amendment of the Plan documents to incorporate revisions, additions, or amendments to the Plan as directed by the County.
3. Assist the County in communicating any revisions, additions or amendments to the Plan Document.
4. Implement, at the request of the County, any changes to benefit Plan Design made during the course of the contract.
5. Provide consultation on benefit design and market trends.
6. Calculate benefit change worth, i.e., impact on claims and administration costs, for proposed Plan Design changes. Contractor shall provide this requested modeling analysis within two weeks of the County's request date.
7. Determine expected claims costs for existing and proposed benefits, including accrual rates.
8. Provide annual calendar year end accounting consisting of the amount of paid claims at the coverage level and a summary of fees paid.
9. Perform such other services, at the written request of the County, such as special communications, peer review fees, audit of provider records, reprogramming of computer information to accommodate Plan changes or amendments, and other such costs consistent with providing administration of the Plan. The additional costs will be paid by the County in addition to the monthly administration fees, following written approval of the work and cost estimate, as noted in Attachment B.
10. At the written request of the County, and at no additional cost to the County, produce and distribute standard communication material to participants that shall include, but not be limited to: program announcement letters and brochures, periodic Plan Design change and other

updates, and mutually agreed upon communications targeted to specific participants and/or groups of participants. Standard communications material will include announcements and participant specific impact letters for network changes, Plan Design changes, etc.

11. Provide Dental Summary of Benefits for 2025 and subsequent years.

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## ATTACHMENT B

### **Compensation/Payment**

1. **Compensation:** This is a fixed fee price Contract between the County and Contractor for services as provided in this Contract. The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The County shall have no obligation to pay any sum in excess of total Contract amount specified below unless authorized by amendment. This contract should be net of commissions.
2. **Firm Discount and Pricing Structure:** Contractor agrees that no price increases shall be passed along to the County during the Term of this Contract not otherwise specified and provided for within this Contract.
3. **Contractor's Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this Contract. The County will not provide free parking for any service in the County Civic Center.
4. **Payment Term:** Invoices for Miscellaneous Fees and Other Charges are to be submitted within 30 days from the date Contractor completes deliverables as defined in the Attachment A-Scope of Services. Contractor shall reference Contract number on invoice. Payment will be net 30 days after receipt, and approval, by County of an invoice in a format acceptable to the County and verified and approved by the agency/department and subject to routine processing requirements.

Invoices shall cover services not previously invoiced. The Contractor shall reimburse the County for any monies paid to the Contractor for services not provided or when services do not meet the Contract requirements.

Payment for per employee per month costs for fixed Administrative Service Only (ASO) fees identified herein will not be based upon Contractor invoice but will be issued by the County based on the number of active subscribers as provided by the County to the Contractor on the monthly Claims Administration Fee Report.

Payment will be made by the last day of each month, representing payment for services provided in the current month, i.e., payment for the month of January will be paid by January 31<sup>st</sup>.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the services.

5. **Payment – Invoicing Instructions for Miscellaneous Fees and Other Charges:** The Contractor will provide an invoice on the Contractor's letterhead for services rendered. Each invoice will have a unique invoice number and will include the following information:
  1. Contractor's name and address
  2. Contractor's remittance address, if different from 1 above
  3. Name of County agency/department

4. Delivery/service address
5. Contract Number
6. Date of order
7. Type of fees/service
8. Sales tax, if applicable
9. Dates of fees/service
10. Brief description of fees/service
11. Contractor's Federal I.D. Number

The County's Program Manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to the County Auditor-Controller for processing of payment. The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

Invoices and support documentation are to be forwarded to:

Program Manager, Kellie Aumond  
Human Resource Services/Employee Benefits  
400 W. Civic Center Dr. Suite 111  
Santa Ana, CA 92701

**6. Payment (Electronic Funds Transfer (EFT)):**

The County of Orange offers contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. The County of Orange, Auditor-Controller Agency will control and initiate payment. To request a form, please contact the agency/department representative listed in the Contract.

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**ATTACHMENT B, CONTINUED**

**Ongoing Administration of Claims**

**1. County of Orange Dental Plan ASO Base Fees**

<b>Fee Charges Per Employee Per Month (PEPM)</b>					
<b>Description</b>	<b>Year 1 2025</b>	<b>Year 2 2026</b>	<b>Year 3 2027</b>	<b>*Year 4 if renewed 2028</b>	<b>*Year 5 if renewed 2029</b>
ASO Fees	\$4.28	\$4.39	\$4.50	\$4.50	\$4.50
Fiduciary	Included	Included	Included	Included	Included
PPO Network Access	Included	Included	Included	Included	Included
Claims and Litigation Support Services as defined in Scope of Services for two years following termination of contract.					
<b>Total</b>	\$4.28	\$4.39	\$4.50	\$4.50	\$4.50

**2. PPO Network Savings Guarantees**

Contractor guarantees to County of Orange Dental PPO Network Savings during the contract period as set forth in this Attachment B. Adjustment to the administrative fee shall be as follows and subject to the Definitions and Calculations as stated below:

**Definitions and Calculations:**

**DPPO In-Network Discount Guarantee** .....  
**35%**

**Dental – Administrative Fees at risk** .....  
**20%**

Period Covered ..... January 1, 2025 to December 31, 2025

Assumed number of active members in Blue Shield PPO plan ..... 2162

Assumed number of active employees in Blue Shield PPO plan ..... 5395

**DPPO Assumptions**

Allowed = Allowed Amount Based on Fee Schedule assigned to Zip and Procedure Code

Mean = 50% UCR

Discount = 1 - Allowed/Mean

- 35% average discount off of the 50th percentile for all paid services.
- Total paid amount divided by total calculated charges using established percentile for paid procedures.
- Orthodontics are not included in the calculation.
- Savings are based on contracted providers within the network.
- The established percentile for the average discount will be based on Fair Health schedules.
- Client specific – tracked quarterly, reported annually.

**3. Credits**

<b>Description</b>	<b>Year 1 2025</b>	<b>Year 2 2026</b>	<b>Year 3 2027</b>	<b>*Year 4 if renewed 2028</b>	<b>*Year 5 if renewed 2029</b>
▪ <b>Communications Credit</b>	\$50,000	0	0	0	0

**4. Run-Out Fees**

▪ <b>Run-out claims processing for 12 months</b>	Included
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\*Contractor will process run-out dental claims for a period of twelve months following the termination date. Any and all additional services needed by the County to administer and track claims run-out, including but not limited to claims reporting, bank reconciliation reports, claim appeals, etc., shall be included in the above fees.

**ATTACHMENT C****Staffing Plan**

## 1. Primary Staff/Key Personnel to perform Contract duties.

<b>Name</b>	<b>Classification</b>
Ken Lautsch	Vice President and General Manager of Premier Accounts
Marilyn DeKeyzer	Senior Director of Account Management, Premier Accounts
Jesseca Nixon	Senior Account Executive, Premier Accounts
Allison Jamieson	Senior Account Services Representative, Premier Accounts
Franklin Woo, DDS, MS, MPA	Dental Director
Charlene Grijalva	Ombudsman and Premier Priority Representative
Robert Lomeli	Specialty Senior Sales Executive, Specialty Benefits
Jennifer Gannon	Senior Manager, Commercial Appeals and Grievances

## 2. Alternate Staff/Key Personnel (for use only if primary is not available)

<b>Name</b>	<b>Classification</b>

Substitution or addition of Contractor's key personnel in any given category or classification shall be allowed only with prior written approval of the County's Program Manager.

The Contractor may reserve the right to involve other personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the services required. Assignment of additional key personnel shall be subject to County approval in writing. In addition to the rights set forth in paragraph 23 regarding Contractor's Project Manager removal, County expressly retain the right to have any of the Contractor personnel prohibited from performing services to County under this Contract. Contractor shall effectuate the removal of the specified Contractor personnel from performing services to County under this Contract within five (5) business days of notification by Program Manager. County shall notify the Contractor in writing of the specific personnel to be prohibited from providing services to County under this Contract. County is not required to provide any reason, rational or factual information if it elects to request any specific Contractor personnel to be prohibited from performing services under this Contract. Contractor's failure to comply with the County Program Manager's decision and remove the specified personnel shall be deemed a material breach of this Contract and County may immediately terminate the Contract without penalty.

3. **Subcontractor(s), if applicable**

In accordance with Article 11, "Assignment or Sub-Contracting", listed below are Subcontractor(s) anticipated by Contractor to perform services specified in this Contract.

<b>Company Name</b>	<b>Service</b>
Arvato Digital Services, LLC	Arvato produces our member ID cards from Valencia, California, and also provides print/mail fulfillment services, pre-sale kit production services, and client- and broker-facing portal services.

BenefitFocus	BenefitFocus intakes electronic enrollment files from multiple trading partners and formats them into simplified Blue Shield 834 files.
Dental Benefit Providers	Dental Benefit Providers (DBP) serves as Blue Shield's dental plan administrator.
Broadridge	Broadridge provides production services for explanation of benefits documents and checks, producer payments, bills, statements, life certificates, as well as letters and other various correspondence .
Commerce Printing	Commerce Printing provides printing services.
Diego & Son Printing, Inc .	Diego & Son Printing, Inc. provides printing services.
Fiserv Solutions	Fiserv Solutions provides on-demand services via multiple channels for Blue Shield clients and members to pay their healthcare insurance premiums.
Fong Brothers	Fong Brothers provides printing, inventory management, kitting, and mailing fulfillment of member welcome kits.
Healthwise	Healthwise supplies a robust health and wellness knowledgebase product for use on our website.
MedeAnalytics	MedeAnalytics delivers performance management solutions across the healthcare system.
Language Line	Language Line provides language services to assist non-English speaking members.
SourceHOV, LLC	SourceHOV provides paper claims and correspondence mailroom, imaging, and data entry services .
The Rawlings Group	Rawlings provides investigation and recovery functions.

## **ATTACHMENT D**

### **Performance Standards**

Self-reported dental claims processing quality results will be based on a monthly minimum sample size of one hundred (100) County of Orange dental claims selected at random, using a financial stratification sampling approach. If the denominator of the measure is below one hundred (100), results will be measured on the Dental Book of Business (BOB) level. Service performance standards indicating BOB shall be measured by the Contractor for all Contractor customers utilizing the same process platform.

Self-reported customer service call quality results will be based on the Contractor's permissible percentage threshold of total County of Orange calls selected at random from all calls handled by the customer service unit servicing the County.

### **Reporting Frequency and Annual Calculation**

Contractor will provide County with reports setting forth the performance of the Contractor against each of the metrics in accordance with the reporting schedule set forth for each metric described below. Unless otherwise noted, reports will be generated within sixty (60) days after the close of each reporting period.

At the close of the calendar year, Contractor will prepare a single annual report which sets forth Contractor's performance against each of the metrics. Annually, County will select a sampling of performance guarantees and request detailed back-up documentation to validate results. In the event Contractor has failed to meet any metric, payment by Contractor of the applicable performance penalty will be sent to County within sixty (60) days after the issuance of the annual report.

When performance issues are identified, Contractor will agree to provide a corrective action plan within seventy-two (72) hours of identification of the issue. Once agreed to by the County, the actions and timelines will be adhered to.

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**ATTACHMENT D, CONTINUED**

<b>Performance Area</b>	<b>Standard</b>	<b>Definition</b>	<b>Measurement / Frequency</b>	<b>Penalty/ Amount at Risk</b>
<b>Dental Claims Processing</b>				
1. Overall Claims Processing Accuracy	≥ 97%	The percentage of audited County claims processed accurately. Calculated as the total number of audited claims processed without error, divided by the total number of audited claims. Definition of “error” includes any type of error (e.g., coding, procedural, system, payment, etc.) whether a payment or non-payment error. Each type of error is counted as one full error and no more than one error can be assigned to one claim. County specific results.	Quarterly, with monthly client specific reporting to County.	2% of annual base administrative fees. Penalty will be 0.5% for each quarter standard is not met
2. Financial Payment (Dollar) Accuracy	≥ 99.3%	The percentage of audited County claims dollars paid accurately. Calculated as total audited paid dollars minus the absolute value of over and underpayments, divided by total audited paid dollars. County specific results.	Quarterly, with monthly client specific reporting to County.	3% of annual base administrative fees. Penalty will be 0.75% for each quarter the standard is not met.
3. Claims Payment Accuracy	≥ 98%	The percentage of audited County claims processed without payment error. Calculated as the total number of audited claims minus the number of claims processed with “payment” error, divided by the total number of audited claims. Definition of error includes any type of error (e.g., coding procedural, system payment (etc.) that results in a payment error. County specific results.	Quarterly, with monthly client specific reporting to County.	2% of annual base administrative fees. Penalty will be 0.5% for each quarter the standard is not met.
4. Turnaround Time - Target 1 (TAT)	≥ 94% of all claims processed within fourteen (14) calendar days.	The percentage of claims processed within a specified number of calendar days. TAT is measured from the date the claim is received by Contractor to the date it is processed (i.e., paid, denied, or pended for external information). County specific results.	Quarterly, with monthly client specific reporting to County.	2% of annual base administrative fees. Penalty will be 0.5% for each quarter the standard is not met.



<b>Performance Area</b>	<b>Standard</b>	<b>Definition</b>	<b>Measurement / Frequency</b>	<b>Penalty/ Amount at Risk</b>
5. Turnaround Time - Target 2 (TAT)	≥ 99% of all claims processed within thirty (30) calendar days.	The percentage of claims processed within a specified number of calendar days. TAT is measured from the date the claim is received by Contractor to the date it is processed (i.e., paid, denied, or pending for external information). County specific results.	Quarterly, with monthly client specific reporting to County.	2% of annual base administrative fees. Penalty will be 0.5% for each quarter the standard is not met.
<b>Customer/Member Service</b>				
6. Telephone Response Time – Average Speed of Answer (ASA)	≥ 85% of calls answered in thirty (30) seconds or less.	The amount of time that elapses between the time a call is received to the time answered by a representative (live voice answer). Call volume does not include calls that are handled by an IVR system. County specific results.	Quarterly, with monthly client specific reporting to County.	2% of annual base administrative fees. Penalty will be 0.5% for each quarter the standard is not met.
7. Call Quality	≥ 93%	The average of all calls quality results for the reporting period. County specific results.	Quarterly, with monthly client specific reporting to County.	2% of annual base administrative fees. Penalty will be 0.5% for each quarter the standard is not met.
8. First Call Resolution Rate	≥ 90% of calls to customer service will be resolved within two (2) business days	The percentage of incoming calls that did not require a second call from the plan member or provider. Reporting will be based on a 45-day look forward and backward from the date of the call for another call on the same topic or issue. If another call is found within this window, the call would not be counted as a first call resolution. County specific results.	Quarterly, with monthly client specific reporting to County.	1% of annual base administrative fees. Penalty will be 0.25% for each quarter the standard is not met.
9. Member Appeal Response Time	Review and respond to 99% of all formal written first and second level appeals within thirty (30) calendar days each.	Measured from date of appeal receipt to date response mailed to member.  Response to appeal is defined as a thorough review of all information related to the appeal followed by a detailed explanation of the final determination in writing, citing specific reasons for denials. County specific results.	Quarterly, with monthly client specific reporting to County.	1% of annual base administrative fees. Penalty will be 0.25% for each quarter the standard is not met.

Performance Area	Standard	Definition	Measurement / Frequency	Penalty/ Amount at Risk
<b>Administrative Issues</b>				
10. Plan Administration Accuracy	≥ 98%	Contractor guarantees that ninety-eight percent (98%) of standard plan design and benefit set-up changes, including pricing contract terms, will be made accurately. This performance guarantee is based upon Contractor's ability to set up new or revised plan design changes based upon receipt of signed documentation from the client. Measure quarterly and reconcile annually upon County specific data.	Quarterly, client-specific reporting to County.	1% of annual base administrative fees. Penalty will be 0.25% for each quarter the standard is not met.
<b>Account Management &amp; Implementation</b>				
12. Account Team Performance Appraisal	Overall Account Team performance is a composite score of three (3) or better.	County will evaluate each member of Contractor's designated Account Management Team on an agreed-upon scorecard. County specific results.  Scale is as follows:  <b>Score / Description</b> 5 - Exceptional 4 - Exceeds Expectations 3 - Meets Expectations 2 - Minimally Meets Expectations 1 - Does Not Meet Expectations	Quarterly, with client specific reporting to County.	2% of annual base administrative fees. Penalty will be 0.5% for each quarter the standard is not met. Establish weekly conference calls until issue is resolved and County is satisfied.
13. Report Delivery	Reports delivered within twenty (20) calendar days following end of reporting period.	Delivery shall be complete upon receipt of reports by the County.  Reports are monthly, quarter-to-date, and year-to-date paid claims and lag reports. County specific results.	Quarterly, with client specific reporting to County.	\$250 for each day report delivery is delayed.

Performance Area	Standard	Definition	Measurement / Frequency	Penalty/ Amount at Risk
<b>Satisfaction</b>				
17. Net Promoter Score	≥ 5% improvement (increase) from previous 12-month reporting period.	<p>Members will be asked: "On a scale of 1 to 10, how likely is it that you would recommend our company/service to a friend or colleague?"</p> <ul style="list-style-type: none"> <li>• Promoters (score 9-10) are loyal enthusiasts who will refer others</li> <li>• Passives (score 7-8) are satisfied but unenthusiastic customers</li> <li>• Detractors (score 0-6) are unhappy customers who can damage a firm's brand and impede growth through negative word-of-mouth</li> </ul> <p>The NPS score is calculated by subtracting the percentage of customers who are Detractors from the percentage of customers who are Promoters. For example, if 40% of responders are Promoters and 10% are Detractors, the NPA score would be 30. <i>The percentage of Passives is not factored into the results equation.</i></p>	Annual; Dental Book of Business	2% of annual base administrative fees.

**ATTACHMENT E****Data Interfaces**

Contractor agrees to develop, transmit and or receive, and reconcile the following interface files and other interfaces files as required to administer the Plan.

**To Contractor:**

<b>From</b>	<b>Purpose/Data to be Provided</b>	<b>Frequency</b>	<b>Comments</b>
County's Benefits Administrator, currently Alight or other Health and Welfare eligibility administrator selected by the County.	Eligibility records for subscribers and dependents in Dental Plan.	Weekly, within 3 business days of receiving eligibility files from Benefits Administrator.	Full file with reconciliation.
Blue Shield of California.	Dental claims history for run-out claims.	Monthly in 2025.	Format to be determined between Blue Shield of California and Contractor.

## ATTACHMENT F

### **Contractor Named Claim Fiduciary**

County hereby delegates to Contractor fiduciary responsibility and discretion to determine all matters relating to the interpretation and operation of the dental plan as it relates to the administration and payment of disputed benefit claims in accordance with the terms of the dental plan, the Agreement and to the extent provided in this Attachment F.

Notwithstanding any provision in this Agreement to the contrary, the parties agree that Contractor shall provide claim appeal fiduciary services subject to the terms and conditions set forth below, and any other applicable federal and state law or regulation, with regards to denied claims and appeals of denied claims under dental plan. The parties acknowledge that Contractor has received and accepted additional fees/compensation from the County, under this Agreement, for the specific purpose of acting as claims fiduciary for the Plan.

#### Fiduciary Claims Appeal Services

Contractor shall act as the claims fiduciary under the dental plan(s) for the appeal of disputed claims under the dental plan. For purposes of this Agreement, a disputed claim is a claimant's written request for review and reconsideration of a claim for benefits initially denied in whole or in part by Contractor. As claims fiduciary, Contractor shall take all actions and retain all experts and outside resources, at its own cost and expense that it deems necessary and appropriate to act in the capacity of claims fiduciary.

Contractor shall ensure that the content of each written claim denial and/or appeal denial notice shall include all information required to be included in such notice to be compliant with applicable federal and state law or regulation, with regards to denied claims and appeals for denied claims. The content of such written notices shall specifically include information regarding how the participant can seek a first-level appeal, second-level appeal and external review of the denied claim or appeal and Contractor shall ensure that each notice is provided in a culturally and linguistically appropriate manner.

In the event a claimant files any court action seeking payment on any claim, whether appealed to Contractor or otherwise, Contractor shall take immediately notify County and await instructions and/or direction from County with respect to any further actions to be taken by Contractor.

Contractor shall, at reasonable intervals, provide County with information on the status of such litigation.

In no event may Contractor settle any claim based upon an expense not covered, or in an amount excess of that permitted, under the applicable dental plan.

Nothing in this Agreement shall be construed as making Contractor a fiduciary for any other activity, function or responsibility in connection with the dental plan and in no event will Contractor be liable for any breach of duty by any other fiduciary, of the County.

In carrying out its services under this Attachment, Contractor shall have discretionary authority to interpret the dental plan and to determine all issues or questions relating to whether, or to what extent, a claim is payable under the terms of the dental plan. Contractor may consult with the County, when appropriate, to determine the intent and best practice of the Plan.

**ATTACHMENT F (cont.)****Contractor Named Claim Fiduciary**

## Fiduciary Cybersecurity

The Contractor commits to adhering to all best practices pertaining to cybersecurity as recommended by the Department of Labor. That includes, but is not limited to:

- Having a formal, well documented cybersecurity program
- Conducting prudent annual risk assessments
- Having a reliable annual third-party audit of security controls
- Clearly defining and assigning security roles and responsibilities
- Having strong access control procedures
- Ensuring that any assets or data stored in a cloud are subject to appropriate security reviews and independent security assessments
- Conducting periodic cybersecurity awareness training
- Implementing and managing a secure system development life cycle program
- Having an effective business resiliency program addressing business continuity, disaster recovery, and incident response
- Encrypting sensitive data, stored and in transit
- Implementing strong technical controls in accordance with best security practices
- Appropriately responding to any past cybersecurity incidents

**ATTACHMENT G**  
**BUSINESS ASSOCIATE CONTRACT**

**A. GENERAL PROVISIONS AND RECITALS**

1. The Parties agree that the terms used, but not otherwise defined below in Paragraph B, shall have the same meaning given to such terms under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“the HITECH Act”), and their implementing regulations at 45 CFR Parts 160 and 164 (“the HIPAA regulations”) as they may exist now or be hereafter amended.

2. The Parties agree that a business associate relationship under HIPAA, the HITECH Act, and the HIPAA regulations between the Contractor and County arises to the extent that Contractor performs, or delegates to subcontractors to perform, functions or activities on behalf of County pursuant to, and as set forth in, the Contract MA 017-24010765 that are described in the definition of “Business Associate” in 45 CFR § 160.103.

3. The County wishes to disclose to Contractor certain information pursuant to the terms of the Contract MA 017-24010765, some of which may constitute Protected Health Information (“PHI”), as defined below in Subparagraph B.10, to be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the Contract MA 017-24010765.

4. The Parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Contract MA 017-24010765 in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they may exist now or be hereafter amended.

5. The Parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.

6. The Parties understand that the HIPAA Privacy and Security rules, as defined below in Subparagraphs B.9 and B.14, apply to the Contractor in the same manner as they apply to a covered entity (County). Contractor agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation specifications, and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract MA 017-24010765.

**B. DEFINITIONS**

1. “Administrative Safeguards” are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of Contractor’s workforce in relation to the protection of that information.

2. “Breach” means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

a. Breach excludes:

i. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Contractor or County, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

ii. Any inadvertent disclosure by a person who is authorized to access PHI at Contractor to another person authorized to access PHI at the Contractor, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

iii. A disclosure of PHI where Contractor or County has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

b. Except as provided in paragraph (a) of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

i. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

ii. The unauthorized person who used the PHI or to whom the disclosure was made;

iii. Whether the PHI was actually acquired or viewed; and

iv. The extent to which the risk to the PHI has been mitigated.

3. "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

4. "Designated Record Set" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in 45 CFR §160.103.

6. "Health Care Operations" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

8. "Physical Safeguards" are physical measures, policies, and procedures to protect Contractor's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

9. "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

10. "Protected Health Information" or "PHI" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.



11. "Required by Law" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.103.

12. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

13. "Security Incident" means attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by Contractor.

14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

16. "Technical safeguards" means the technology and the policy and procedures for its use that protect electronic PHI and control access to it.

17. "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of Health and Human Services in the guidance issued on the HHS Web site.

18. "Use" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

### **C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:**

1. Contractor agrees not to use or further disclose PHI County discloses to Contractor other than as permitted or required by this Business Associate Contract or as required by law.

2. Contractor agrees to use appropriate safeguards, as provided for in this Business Associate Contract and the Contract MA 017-24010765, to prevent use or disclosure of PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County other than as provided for by this Business Associate Contract.

3. Contractor agrees to comply with the HIPAA Security Rule at Subpart C of 45 CFR Part 164 with respect to electronic PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County.

4. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a Use or Disclosure of PHI by Contractor in violation of the requirements of this Business Associate Contract.

5. Contractor agrees to report to County promptly, and without any unreasonable delay but in any event within ten (10) business days after discovery of any Use or Disclosure of PHI not provided for by this Business Associate Contract of which Contractor becomes aware. Contractor must report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

6. Contractor agrees to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Contractor agree to substantially similar requirements at least as stringent as those

restrictions and conditions that apply through this Business Associate Contract to Contractor with respect to such information.

7. Contractor agrees to provide access, within fifteen (15) calendar days of receipt of a written request by County, to PHI in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under 45 CFR § 164.524.

8. Contractor agrees to make any amendment(s) to PHI in a Designated Record Set that County directs or agrees to pursuant to 45 CFR § 164.526 at the request of County or an Individual, within thirty (30) calendar days of receipt of said request by County. Contractor agrees to notify County in writing no later than ten (10) calendar days after said amendment is completed.

9. Contractor agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, County available to the Secretary in a time and manner as determined by the Secretary for purposes of the Secretary determining County's compliance with the HIPAA Privacy Rule.

10. Contractor agrees to document any Disclosures of PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County, and to make information related to such Disclosures available as would be required for County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

11. Contractor agrees to provide County or an Individual, as directed by County, in a time and manner to be determined by County, that information collected in accordance with the Contract MA 017-24010765 in order to permit County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

12. Contractor agrees that to the extent Contractor carries out County's obligation under the HIPAA Privacy and/or Security rules Contractor will comply with the requirements of 45 CFR Part 164 that apply to County in the performance of such obligation.

13. Contractor shall work with County upon notification by Contractor to County of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph B.2.a above.

#### **D. SECURITY RULE**

1. Contractor shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR § 164.308, § 164.310, § 164.312, and § 164.316 with respect to electronic PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County. Contractor shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

2. Contractor shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of Contractor agree through a contract with Contractor to substantially similar requirements at least as stringent as those restrictions and requirements contained in this Paragraph D of this Business Associate Contract.

3. Contractor shall report to County promptly, and without any unreasonable delay, but in any event within ten (10) business days after discovery, any Security Incident of which it becomes aware. Contractor shall report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

**E. BREACH DISCOVERY AND NOTIFICATION**

1. Following the discovery of a Breach of Unsecured PHI, Contractor shall notify County of such Breach, however both Parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR § 164.412.

a. A Breach shall be treated as discovered by Contractor as of the first day on which such Breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor.

b. Contractor shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of Contractor, as determined by federal common law of agency.

2. Contractor shall provide the notification of the Breach promptly, and without any unreasonable delay, but in any event within ten (10) business days after discovery, to the County Privacy Officer at:

<b>CEO   OCIT   ENTERPRISE PRIVACY &amp; CYBERSECURITY</b>	<b>CEO   OCIT   ENTERPRISE PRIVACY &amp; CYBERSECURITY</b>
<p><b>Linda Le, CHPC, CHC, CHP County Privacy Officer</b>                      1055 N. Main Street, 6th Floor                      Santa Ana, CA 92701                      Office: (714) 834-4082                      Email: linda.le@ocit.ocgov.com                      privacyofficer@ocgov.com</p>	<p><b>Andrew Alipanah, MBA, CISSP, Chief Information Security Officer</b>                      1055 N. Main Street, 6th Floor                      Santa Ana, CA 92701                      Office: (714) 567-7611                      Email: Andrew.Alipanah@ocit.ocgov.com</p>

a. Contractor’s notification may be oral but shall be followed by written notification without unreasonable delay and in no event later than three (3) business days from date of the oral notification.

3. Contractor’s notification shall include, to the extent possible:

a. The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Contractor to have been, accessed, acquired, used, or disclosed during the Breach;

b. Any other information that County is required to include in the notification to Individual under 45 CFR § 164.404 (c) at the time Contractor is required to notify County or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR § 164.410 (b) has elapsed, including:

(1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

(2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

(3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;

(4) A brief description of what Contractor is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and

(5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

4. County may require Contractor to provide notice to the Individual as required in 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the County.

5. In the event that Contractor is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, Contractor shall have the burden of demonstrating that Contractor made all notifications to County consistent with this Paragraph E and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

6. Contractor shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

7. Contractor shall provide to County all specific and pertinent information about the Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit County to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable, but in no event later than fifteen (15) calendar days after Contractor's initial report of the Breach to County pursuant to Subparagraph E.2 above.

8. Contractor shall continue to provide all additional pertinent information about the Breach to County as it may become available, in reporting increments of five (5) business days after the last report to County. Contractor shall also respond in good faith to any reasonable requests for further information, or follow up information after report to County, when such request is made by County.

9. Contractor shall bear all expense or other costs associated with the Breach and shall reimburse County for all direct expenses County incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation, or other costs associated with addressing the Breach.

## **F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR**

1. Contractor may use or further disclose PHI County discloses to Contractor as necessary to perform functions, activities, or services for, or on behalf of, County as specified in the Contract MA 017-24010765, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by County except for the specific Uses and Disclosures set forth below.

a. Contractor may use PHI County discloses to Contractor, if necessary, for the proper management and administration of Contractor.

b. Contractor may disclose PHI County discloses to Contractor for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, if:

i. The Disclosure is required by law; or

ii. Contractor obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and the person immediately notifies Contractor of any instance of which it is aware in which the confidentiality of the information has been breached.

c. Contractor may use or further disclose PHI County discloses to Contractor to provide Data Aggregation services relating to the Health Care Operations of Contractor.

2. Contractor may use PHI County discloses to Contractor, if necessary, to carry out legal responsibilities of Contractor.

3. Contractor may use and disclose PHI County discloses to Contractor consistent with the minimum necessary policies and procedures of County.

4. Contractor may use or disclose PHI County discloses to Contractor as required by law.

## **G. OBLIGATIONS OF COUNTY**

1. County shall notify Contractor of any limitation(s) in County's notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Contractor's Use or Disclosure of PHI.

2. County shall notify Contractor of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Contractor's Use or Disclosure of PHI.

3. County shall notify Contractor of any restriction to the Use or Disclosure of PHI that County has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Contractor's Use or Disclosure of PHI.

4. County shall not request Contractor to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by County.

## **H. BUSINESS ASSOCIATE TERMINATION**

1. Upon County's knowledge of a material breach or violation by Contractor of the requirements of this Business Associate Contract, County shall:

a. Provide an opportunity for Contractor to cure the material breach or end the violation within thirty (30) business days; or

b. Immediately terminate the Contract MA 017-24010765, if Contractor is unwilling or unable to cure the material breach or end the violation within thirty (30) days, provided termination of the Contract MA 017-24010765 is feasible.

2. Upon termination of the Contract MA 017-24010765 Contractor shall either destroy or return to County all PHI Contractor received from County or Contractor created, maintained, or received on behalf of County in conformity with the HIPAA Privacy Rule.

a. This provision shall apply to all PHI that is in the possession of Subcontractors or agents of Contractor.

b. Contractor shall retain no copies of the PHI.

c. In the event that Contractor determines that returning or destroying the PHI is not feasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon determination by County that return or destruction of PHI is infeasible, Contractor shall extend the

protections of this Business Associate Contract to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as Contractor maintains such PHI.

3. The obligations of this Business Associate Contract shall survive the termination of the Contract MA 017-24010765.

**ATTACHMENT H****CLAIMS FUNDING ARRANGEMENTS****ARTICLE 1  
BANKING ARRANGEMENTS**

- A. Contractor will establish and maintain a Plan Benefit Account with a Bank agreed to between the Contractor and County to fund all claims cost. County will make proper arrangements with County Bank to accept daily, excluding County holidays, or weekly Automated Clearing House (ACH) debit transaction from the Contractor to facilitate funding of the Plan Benefit Account.
- B. Contractor's Bank must be members of the state or local ACH for debits to be processed. Contractor will process the ACH debits according to National Automated Clearing House Association (NACHA) rules and regulations.

**ARTICLE 2  
AUTHORIZATION TO TRANSFER FUNDS**

- A. County authorizes Contractor to transfer funds from an account designated by the County at the County Bank to the Contractor Bank in accordance with this Agreement between County and Contractor. These transfers will be through the ACH process and shall be governed by this Agreement and such arrangement as agreed upon between Contractor and County Treasurer-Tax Collector.
- B. Contractor operations will process the claim payment cycles and send checks or non-draft payments to providers or make other payments as applicable. Contractor will request funds from the County when the checks are presented for payment and the non-drafts adjustments are passed to the banking system. Contractor will initiate daily or weekly ACH debit to County Bank as denoted in B above.
- C. Contractor shall provide to the County a bank cleared register which reconciles to the daily or weekly funding advice and a summary report that reconciles to the bank register must also be provided that includes the amount by plan, eligibility, and enrollment Structure as requested by the County. The bank cleared register shall include name of payee, amount, check date, check number, and claim number. Contractor will provide with the check register a summary report in a format acceptable to the County to support the amount of claim payments issued from County claim accounts.
- D. Contractor will email the daily or weekly funding advice to the multiple designated contacts of the County. This advice will be available to the County prior to 10:00 am Pacific Time prior to the day the funds are to be made available. Standard monthly banking reports will confirm and reconcile deposits and charges for each bank day of the month.
- E. County authorizes Contractor to transfer funds with the daily, excluding County holidays, or weekly funding advice upon providing backup to multiple designated contacts within County describing the amount of the funds being transferred.
- F. County will pay any fees charged by County Bank to service the designated account. Contractor will not charge the County any fees for maintaining the Plan Benefit Account at Contractor Bank.
- G. Upon receipt of the notification, County shall fund the account at County Bank within twenty-four (24) hours, excluding weekends and County holidays. Sufficient Funds will be available in the County Bank account to fund ACH debits.

- H. County grants Contractor a limited right to transfer funds to satisfy plan claim costs described herein. Contractor has no right to transfer any funds other than expressly outline in this Agreement unless authorized by the County to collect through Account.

ARTICLE 3  
TERMINATION

This terms and conditions set forth in this Attachment H will continue throughout the term of the Contract, the Run-out Period (as defined herein), and for an additional twelve (12) months following the end of the Run-out Period, at which time this Attachment will automatically terminate. The Contractor will place stop payments on remaining uncashed check and provide the County a detailed listing of the stop payments. The County will recover any monies remaining in the Account and receive all final reports.

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**ATTACHMENT I****COUNTY OF ORANGE INFORMATION TECHNOLOGY SECURITY PROVISIONS**

All Contractors with access to County employee data shall establish and maintain policies, procedures, and technical, physical, and administrative safeguards designed to (i) ensure the confidentiality, integrity, and availability of all County employee data and any other confidential information that the Contractor receives, stores, maintains, processes, transmits, or otherwise accesses in connection with the provision of the contracted services, (ii) protect against any threats or hazards to the security or integrity of County employee data, systems, or other confidential information, (iii) protect against unauthorized access, use, or disclosure of County employee data, (iv) maintain reasonable procedures to prevent, detect, respond, and provide notification to the County regarding any internal or external security breaches, (v) ensure the return or appropriate disposal of personal information or other confidential information upon contract conclusion (or per retention standards set forth in the contract), and (vi) ensure that any subcontractor(s)/agent(s) that receives, stores, maintains, processes, transmits, or otherwise accesses County employee data and/or system(s) is in compliance with statements and the provisions of statements and services herein.

1. Contractor, Contractor personnel, Contractor's subcontractors, any person performing work on behalf of Contractor, and all other agents and representatives of Contractor will, at all times, comply with and abide by latest National Institute of Standards and Technology (NIST) 800-53 framework, that pertain to Contractor in connection with the Services performed by Contractor as set forth in the scope of work of this Contract.

Contractor shall use industry best practices and methods with regard to confidentiality, integrity, availability, and the prevention, detection, response, and elimination of threat, by all appropriate means, of fraud, abuse, and other inappropriate or unauthorized access to County employee data in the performance of Services under this Contract.

2. The Contractor shall implement and maintain a written information security program that contains reasonable and appropriate security measures designed to safeguard the confidentiality, integrity, availability, and resiliency of County employee data and/or system(s). The Contractor shall review and update its information security program in accordance with contractual, legal, and regulatory requirements. Upon County request, Contractor shall provide a live review of its latest security assessment performed by a third party, such as a SOC2 Type 2 report.
3. Information Access: Contractor shall use appropriate safeguards and security measures to ensure the confidentiality and security of all County employee data.
4. Data Security Requirements: Without limiting Contractor's obligation of confidentiality as further described in this Contract, Contractor must establish, maintain, and enforce a data privacy program and an information and cyber security program, including safety, physical, and technical security and resiliency policies and procedures, that comply with the requirements set forth in this Contract and, to the extent such programs are consistent with and not less protective than the requirements set forth in this Contract and are at least equal to applicable best industry practices and standards (NIST 800-53).

Contractor also shall provide technical and organizational safeguards against accidental, unlawful, or unauthorized access or use, destruction, loss, alteration, disclosure, transfer, commingling, or processing of such information that ensure a level of security appropriate to the risks presented by the processing of County employee Data.

Contractor personnel and/or subcontractor personnel and affiliates approved by County to perform work under this Contract may use or disclose County personal and confidential information only as

permitted in this Contract. Any other use or disclosure requires express approval in writing by the County of Orange. No Contractor personnel and/or subcontractor personnel or affiliate shall duplicate, disseminate, market, sell, or disclose County personal and confidential information except as allowed in this Contract. Contractor personnel and/or subcontractor personnel or affiliate who access, disclose, market, sell, or use County personal and confidential information in a manner or for a purpose not authorized by this Contract may be subject to civil and criminal sanctions contained in applicable federal and state statutes.

Contractor shall take all reasonable measures to secure and defend all locations, equipment, systems, and other materials and facilities employed in connection with the Services against hackers and others who may seek, without authorization, to disrupt, damage, modify, access, or otherwise use Contractor systems or the information found therein.

Contractor shall also continuously monitor its systems for potential areas where security could be breached. Without limiting any other audit rights of County, County shall have the right to review Contractor's data privacy and information and cyber security program that are not otherwise proprietary, subject to nondisclosure agreements, and are not subject to legal privileges prior to commencement of Services and no less than annually during the term of this Contract.

All data collected on behalf of this contract shall be destroyed or returned at the end of the contract via digital wiping, degaussing, or physical shredding as directed by County.

6. General Security Standards: Contractor will be solely responsible for the information technology infrastructure, including all computers, software, databases, electronic systems (including database management systems, email systems, auditing, and monitoring systems) and networks used by or for Contractor ("Contractor Systems") to access County employee data or otherwise in connection with the Services and shall prevent unauthorized access to employee data through the Contractor Systems.

a) **Contractor System(s) and Security:** At all times during the contract term, Contractor shall maintain a level of security with regard to the Contractor Systems, that in all events is at least as secure as the levels of security that are common and prevalent in the industry and in accordance with industry best practices (NIST 800-53). Contractor shall maintain all appropriate administrative, physical, technical, and procedural safeguards to secure County employee data from data breach, protect County employee data and the Services from loss, corruption, unauthorized disclosure, and from hacks, and the introduction of viruses, disabling devices, malware, and other forms of malicious and inadvertent acts that can disrupt County's access and use of County employee data and the Services.

Contractors who are not provided with a County email address, but need to transmit County employee data will be required to maintain and transmit County employee data in accordance with this Agreement.

7. Security Failures: Any failure by the Contractor to meet the requirements of this Contract with respect to the security of County employee data, including any related backup, disaster recovery, or other policies, practices or procedures, and any breach or violation by Contractor or its subcontractors or affiliates, or their employees or agents, of any of the foregoing, shall be deemed a material breach of this Contract and may result in termination and reimbursement to County of any fees prepaid by County prorated to the date of such termination. The remedy provided in this paragraph shall not be exclusive and is in addition to any other rights and remedies provided by law or under the Contract.
8. Security Breach Notification: In the event Contractor becomes aware of any act, error or omission, negligence, misconduct, or security incident including unsecure or improper data disposal, theft, loss, unauthorized use and disclosure or access, that compromises or is suspected to compromise the security,

availability, confidentiality, and/or integrity of County employee data or the physical, technical, administrative, or organizational safeguards required under this Contract that relate to the security, availability, confidentiality, and/or integrity of County employee data, Contractor shall, at its own expense, (1) promptly, and without any unreasonable delay, but in any event within 10 business days, notify the County's Chief Information Security Officer and County Privacy Officer of such occurrence; (2) perform a root cause analysis of the actual, potential, or suspected breach; (3) provide a remediation plan that is acceptable to County within 30 days of verified breach, to address the occurrence of the breach and prevent any further incidents; (4) conduct a forensic investigation to determine what systems, data, and information have been affected by such event; and (5) cooperate with County and any law enforcement or regulatory officials investigating such occurrence, including but not limited to making available all relevant records, forensics, investigative evidence, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by County and/or any law enforcement or regulatory officials, and (6) perform or take any other actions required to comply with applicable law as a result of the occurrence (at the direction of County).

In the case of a breach, Contractor shall provide third-party credit and identity monitoring services to each of the affected individuals for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals.

Notification shall be sent to:

Andrew Alipanah, MBA, CISSP  
Chief Information Security Officer  
1055 N. Main St., 6<sup>th</sup> Floor  
Santa Ana, CA 92701  
Phone: (714) 567-7611  
[Andrew.Alipanah@ocit.ocgov.com](mailto:Andrew.Alipanah@ocit.ocgov.com)

Linda Le, CHPC, CHC, CHP  
County Privacy Officer  
1055 N. Main St., 6<sup>th</sup> Floor  
Santa Ana, CA 92701  
Phone: (714) 834-4082  
[Linda.Le@ocit.ocgov.com](mailto:Linda.Le@ocit.ocgov.com)

9. Security Audits: Contractor shall maintain complete and accurate records relating to its system and Organization Controls (SOC) Type II audits or equivalent's data protection practices, internal and external audits, and the security of any of County-hosted content, including any confidentiality, integrity, and availability operations (data hosting, backup, disaster recovery, external dependencies management, vulnerability testing, penetration testing, patching, or other related policies, practices, standards, or procedures).

County has the right to review live in a call any Plans of Actions and Milestones (POA&M) for any outstanding items identified by the SOC 2 Type II report requiring remediation as it pertains to the confidentiality, integrity, and availability of County employee data. County reserves the right, at its sole discretion, to immediately terminate this Contract or a part thereof without limitation and without liability to County if County reasonably determines Contractor fails or has failed to meet its obligations under this section.

#### 10. Business Continuity and Disaster Recovery (BCDR):

Relevant data and/or systems and technology provided by the Contractor internally and through third-party vendors through the provision of services to County employees shall have resiliency and redundancy capabilities to achieve high availability and data recoverability. Contractor Systems shall be designed, where practical and possible, to ensure continuity of service(s) in the event of a disruption or outage.

**EXHIBIT 1**

**COUNTY OF ORANGE DENTAL PLAN**

See Separate Attachment