



CONTRACT BETWEEN

COUNTY OF ORANGE

AND

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

FOR

**CLAIMS ADMINISTRATION FOR THE SELF-INSURED
MANAGEMENT AND ATTORNEY DENTAL PLAN**

CONTENTS

Table of Contents2

Recitals4

ARTICLES

1. Scope of Work.....4

2. Compensation/Payment.....4

3. Term of Contract4

4. Entire Agreement4

5. Amendments.....5

6. Governing Law and Venue.....5

7. Contingency of Funds5

8. Taxes5

9. Delivery5

10. Independent Contractor5

11. Assignment or Sub-contracting5

12. Non-Discrimination6

13. Performance.....6

14. Errors and Omissions6

15. Patent/Copyright Material/Proprietary Infringement7

16. Compliance with Laws7

17. Indemnification7

18. Insurance Provisions.....7

19. Emergency/Declared Disaster Requirements10

20. Confidentiality.....10

21. Contractor Personnel11

22. Contractor’s Account Manager and Key Personnel11

23. Program Manager11

24. Reports/Meetings.....11

25. Ownership of Documents11

26. Title to Data.....12

27. Audit/Inspections.....12

28. Publication.....12

29. Conflict of Interest (Contractor).....12

30. Termination12

31. PPO Network Changes13

32. Breach of Contract.....13

33. Disputes.....14

34. Orderly Termination.....14

35. Force Majeure.....15

36. Consent to Breach Not Waiver.....15

37. Remedies Not Exclusive15

38. Notices.....15

39. County of Orange Child Support Enforcement15

40. EDD Independent Contractor Reporting Requirements15

41. Change of Ownership/Name/Litigation Status, Conflicts with County Interests.....16

42. Precedence.....16

43. Headings.....17

44. Severability.....17
45. Calendar Days17
46. Attorney Fees17
47. Interpretation17
48. Authority17
49. Survival17
50. Health Insurance Portability and Accountability Act (HIPAA).....17
51. Civil Rights.....17
52. Lobbying17
53. Debarment18
54. Employee Eligibility Verification18
55. Bills and Liens.....18
56. Changes18
57. Terms and Conditions18
58. Incorporation18

CONTRACT SIGNATURE PAGE19

ATTACHMENTS

Attachment A - Scope of Work.....20
Attachment B - Compensation/Payment33
Attachment C - Staffing Plan37
Attachment D - Implementation Plan/Project Schedule.....39
Attachment E - Performance Standards.....41
Attachment F - Data Interfaces.....46
Attachment G - Contractor Named Claim Fiduciary.....47
Attachment H - HIPAA Privacy Business Associate Agreement48
Attachment I - Claim Funding Arrangements55

EXHIBIT

Exhibit 1 Management and Attorney Dental Plan.....57

**CONTRACT FOR CLAIMS ADMINISTRATION FOR THE
SELF-INSURED MANAGEMENT AND ATTORNEY DENTAL PLAN**

THIS AGREEMENT to provide Claims Administration for the Self-Insured Management and Attorney Dental Plan, (hereinafter referred to as “Contract”), is effective January 1, 2020, 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 50 Beale Street, San Francisco, CA 94105, (hereinafter referred to as “Contractor”), which are sometimes individually referred to as “Party” or collectively as “Parties”.

RECITALS

WHEREAS, Contractor responded to a Request for Proposal (“RFP”) for the provision to provide Claims Administration for the Self-Insured Management and Attorney Dental Plan as defined herein; and

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

WHEREAS, the County’s Board of Supervisors has authorized the Purchasing Agent or authorized Deputy Purchasing Agent to enter into this Contract with Contractor to provide Claims Administration for the Self-Insured Management and Attorney Dental Plan;

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

1. **Scope of Work:** This Contract, including any Attachments and Exhibits, specifies the contractual terms and conditions by which the County will procure services for Claims Administration for the Self-Insured Management and Attorney Dental Plan from Contractor as further detailed in the Scope of Work, identified and incorporated herein by this reference as Attachment A.
2. **Compensation/Payment:** The Contractor agrees to accept the compensation as set forth in Attachment B, Compensation/Payment, identified and incorporated herein by this reference, as full remuneration for (a) performing all Services and furnishing all staffing and materials required, (b) any reasonably unforeseen difficulties which may arise or be encountered in the performance of the Services until acceptance, (c) risks connected with the Services, and (d) performance by the Contractor of all its duties and obligations required herein.
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, 2020, 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 two (2) additional consecutive one (1) year terms, upon the mutual written agreement of the Parties. 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 provisions of this Contract.
4. **Entire Agreement:** This Contract, including its Attachment A through Attachment 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 his authorized designee. 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 recitals and articles), and then the attachments and then the exhibit.

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, without reference to conflict of laws provisions. 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 trial to another venue.
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 Work.
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 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 County 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 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 California state and federal anti-discrimination laws and regulations, including but not limited to Section 1735 of the California Labor Code and not engage nor permit any sub-contractors 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 sub-contractors.
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. **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.
16. **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 17 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.
17. **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.
18. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase 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, Certificates of Insurance, and endorsements on deposit with the County during the entire Term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

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. 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. Contractor is responsible for work performed by Contractor's subcontractors.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

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**). It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier).

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, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Professional Liability Insurance	\$1,000,000 per claims made
Employee Dishonesty (Client Coverage)	\$2,000,000 per occurrence
Network Security & Privacy Liability	\$3,000,000 per claims made

The Employee Dishonesty insurance must provide coverage for the following: employee dishonesty; forgery or alteration; computer and credit/debit/charge card fraud; funds transfer fraud; money order and counterfeit currency; and client or third party coverage in the amount of at least \$2,000,000 each coverage part. Coverage to include expenses incurred to establish the amount of the covered loss and all employees are to be considered insureds.

Required Coverage Forms

The Commercial General Liability coverage shall be written on 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, agents and employees 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 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, agents and employees* 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.

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, agents and employees or provide blanket coverage, which will state "As Required by Written Contract".

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees 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 notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for 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 Network Securities and Privacy Liability policy is a "Claims-Made" policy, Contractor shall agree to maintain coverage for two (2) years following completion 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.

19. **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.

The California State Assembly passed AB 2941 in 2018 and it went into effect as of January 1, 2019. This bill requires health plans to take certain actions to provide displaced or potentially displaced enrollees with access to medically necessary health care services if a state of emergency is declared by the Governor for a California county. Contractor recently completed an effort to be in compliance with this legislation. Contractor will continue to post actions taken to respond to an emergency which affects enrollees on its website (blueshieldca.com).

Contractor's obligations under this provision are subject to the limitations set forth in Article 35 – Force Majeure of this model contract. In other words, if an emergency or disaster is a force majeure event for Contractor as defined under Article 35, Contractor would be excused from compliance with the requirements under Article 19.

20. **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 the Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

County and Contractor agree that information identified by either party as confidential or trade secret due to its proprietary nature, and any confidential medical information shall be held in trust and confidence by the other, except as otherwise required by law, and shall be used only for the purposes contemplated under this Agreement. Contractor understands and agrees that the County is subject to state and federal laws

regarding the release of public records and that records and information provided by the Contractor may be subject to those laws.

21. **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. In the event County is dissatisfied with the performance of any Contractor personnel, County will provide notice to Contractor. Contractor agrees to promptly investigate the matter and to work diligently with County toward a satisfactory resolution, including, as reasonably necessary, removal and replacement of Contractor personnel. If after 60 calendar days from the date the County provides notification to the Contractor, the Contractor is unable to resolve the issues, the County's Program Manager retains its right to request the removal of personnel and Contractor will comply within three business days or a timeframe agreeable to the County. The Parties agree to work cooperatively in the resolution of all such matters.

22. **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 and key personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the Contractor's Account Manager.

23. **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.

In the event County's Program Manager is dissatisfied with the performance of Contractor's Principal Consultant, County will provide notice to Contractor. Contractor agrees to promptly investigate the matter and to work diligently with County toward a satisfactory resolution, including, as reasonably necessary, removal and replacement of Contractor's Principal Consultant. The County's Program Manager shall review and approve the appointment of the replacement for the Contractor's Principal Consultant, which approval shall not be unreasonably withheld. If after 60 calendar days from the date of the County provides notification to the Contractor, the Contractor is unable to resolve the issues, the County's Program Manager retains its right to request the removal of personnel and Contractor will comply within three business days or a time frame agreeable to the County. The Parties agree to work cooperatively in the resolution of all such matters.

24. **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.

25. **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 25 is contingent upon any limitations imposed on Contractor under its licensing agreement with the Blue Cross Blue Shield Association. Furthermore, Article 25 does not create ownership rights for the County nor any obligations for Contractor that would violate this licensing agreement between Contractor and the Association.

26. **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.
27. **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, 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. 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 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 include a similar right to the County to audit records and interview staff of any sub-contractor related to performance of this Contract.

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.

28. **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.
29. **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.
30. **Termination:** In addition to any other remedies or rights it may have by law, and subject to section 32 hereof, 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.

In addition to any other remedies or rights it may have by law and as set forth in this Contract, Contractor has the right to terminate this Contract without penalty after 365 days written notice without cause, unless otherwise specified. The County shall have the right to terminate Contractor's services under the following conditions and timeframes:

- a. Upon the firm committing a material breach of the terms of the Contract with the County subject to the notice and right to cure described in Section 32.
- b. Immediately for violation of any fiduciary duty or if the Contractor commits a fraud or criminal act in providing the agreed upon services.
- c. Thirty days after the County provides Contractor with written notice, if the Contractor sells all of their assets or transfers control of management or operations to any third party.
- d. Upon appropriate notice if there has been a filing of a petition for voluntary or involuntary bankruptcy or dissolution involving Contractor and/or thirty days after the County provides Contractor with written notice, if under Title 11 of the United States Code, the firm becomes subject to any voluntary or involuntary insolvency, cession or similar proceedings or the Contractor has made an assignment for the benefit of creditors.
- e. Thirty days after the County provides the Contractor with written notice, if the County determines there has been a significant decline in the firm's financial condition.
- f. Thirty days after a termination from your provider panel, hospital network and/or medical group(s) that ranks in the top 20 in claims volumes or participant utilization

In the event Contractor attempts to terminate this Contract or otherwise ceases delivery of the services provided in Attachment A – Scope of Work, without complying with the Termination provisions herein, Contractor agrees to pay the County as damages the sum of: (1) the County's (including County consultants and advisors) costs and expenses in procuring a new contractor to perform the services, (2) the additional fees, expenses and other compensation paid to the new contractor in excess of what would have been paid to Contractor had Contractor fully performed the services under this Contract and (3) any and all other costs, expenses, damages or liabilities of the County resulting from Contractor's improper termination of this Contract of the failure to perform Contract services.

If the County fails to fund the account at County Bank after ten (10) business days from the receipt of notice of deficiencies, Contractor may terminate this Agreement upon five (5) business days written notice, to be provided after the ten days receipt of notice of deficiencies, for failure to provide sufficient funds for claim payments as required under this agreement unless the County adequately funds the account before the end of the five business days.

31. **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.
32. **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 will, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract,

afford the Contractor written notice of the breach and fifteen (15) calendar days or such shorter time that may be specified in this Contract within which to cure the breach. If the breach is not cured within fifteen (15) calendar days the County may choose to:

- a. Terminate the Contract, without penalty to the County; or
- b. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and, offset against any monies billed by the Contractor but yet unpaid by the County any such discontinued payments; any discontinued payments shall subsequently become due if, and to the extent that, Contractor cures the breach.

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 I.

33. **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.

34. **Orderly Termination:** 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 this 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.

At the end of the term of this Contract or in the event of termination of this Contract by either party, the Contractor agrees to provide County with a computer history tape (in a form and format reasonable acceptable to the County) with information necessary to transfer the records of each member's history of Claims within thirty (30) days of the effective date of the termination of this Contract. County may request copies of individual files necessary to reconstruct individual histories on specified members for up to five (5) years after termination of this Contract.

At the end of the term of this Contract or in the event of termination of the Contract by either Party, the Parties each agree to cooperate with and timely respond to requests from the other Party for records, information or other reasonable requests for assistance relating to matters that occurred while the contract

was in effect. Such cooperation shall include providing reasonable access to records and information and assistance in responding to inquiries and litigation.

35. **Force Majeure:** Contractor shall not be in breach of this Contract and 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 the County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
36. **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.
37. **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.
38. **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
333 W. Santa Ana Blvd., 1st Floor, Room 137
Santa Ana, CA 92701

cc: Human Resource Services/Employee Benefits
Attn: Susie Kim, Deputy Purchasing Agent
333 W. Santa Ana Blvd., 1st Floor, Room 137
Santa Ana, CA 92701

Contractor: TBD

39. **County of Orange Child Support Enforcement Certification Requirements:** Contractor is required to comply with the child support enforcement requirements of the County. Failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of this Contract. Within ten days of the effective date to this Agreement, Contractor shall provide the County with a certification that Contractor is in compliance with all applicable federal and state reporting requirements regarding Contractor's employees.
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. The Contractor is representing themselves as a corporation and the reporting requirement would not be applicable.

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.

41. **Change Of Ownership/Name, Litigation Status, Conflicts with County Interests:** 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 14, 15, 16, 17, 18, and 20 shall survive the termination of this Contract.
50. **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 H hereto shall be operative and control the Business Associate relationship of the parties. Nothing in Attachment H shall be considered a waiver of the limitation on subcontracting as set forth in this Contract.
51. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
52. **Lobbying:** On the best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, the Contractor to any person influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the

awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.

53. **Debarment:** Contractor shall certify that neither Contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency. Where Contractor as the recipient of federal funds, is unable to certify to any of the statements in the certification, Contractor must include an explanation with the bid/proposal. Debarment pending debarment, declared ineligibility or voluntary exclusion from participation by any Federal department of agency may result in the bid/proposal being deemed non-responsible.
54. **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.
55. **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.
56. **Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.
57. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
58. **Incorporation:** This Contract and its Attachments A through I and Exhibit 1 are attached hereto and incorporated herein by this reference and made a part of this Contract.

CONTRACT SIGNATURE PAGE TO FOLLOW

CONTRACT SIGNATURE PAGE

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

CONTRACTOR*:

Print Name Title

Signature Date

Print Name Title

Signature Date

**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

Print Name Title

Signature Date

Approved by the Board of Supervisors on: _____

APPROVED AS TO FORM:

Deputy, Office of County Counsel
Orange County, California

ATTACHMENT A

Scope of Work

- 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 Center”* shall be defined as the County’s Benefits Center for employees and retirees, which provides full Benefits administration such as benefits eligibility and enrollment, currently provided through Secova, Inc.
 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 certain management and attorney employees and their dependents known as the “Management and Attorney 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 establish 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.
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 Management and Attorney Dental Plan

Objectives

The Contractor shall perform the required services of this Attachment A – Scope of Work 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.

Phase I – Implementation Plan/Project Schedule

See Attachment D – Implementation Plan/Project Schedule

Phase II – Required Responsibilities and Services

The required services for Claims Administration for the County of Orange self-insured PPO dental plan are contained in the Model 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 has 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 5:00 a.m. to 8:00 p.m. (Pacific Time) Monday through Friday except for the following holidays; New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, day after Thanksgiving 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 September 1, 2020, 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 G, 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 may customize EOBs for County's specific requirements, if feasible, and will include the County's logo.

3. Process out of network claims from providers using a Usual Reasonable Charges (URC) amount equal to the 90th 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 Center.
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 Center 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, on-going 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 overpayment 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 independent second level appeals, grievances and complaints within 30 days each. 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. Coordinate with previous administrator to process final run-in claims from 2019 and prior not processed by December 31, 2020.
23. 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.

C. Customer Service

Contractor shall:

1. Provide a designated 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 Center 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 Center, 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 Center. 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 Center 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 Center.
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 Center when needed to provide access to care in between eligibility file transmissions.
5. Reconcile enrollment and administrative fee of Plan Participants with the Benefits Center records monthly. Correct information to match the County enrollment information and maintain appropriate claims payment history.
6. 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 I.

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 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 30th of each year, within five business days after June 30th.
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.
7. Provide County with notice of funding deficiencies if the County fails to fund account at County Bank as required in Attachment I. If the County does not fund the account within forty-eight (48) hours after notification of deficiency, excluding weekends and County holidays, Contractor may cease claims administration and issuance of benefit checks until appropriate funding is provided. If the deficiencies are corrected, Contractor will commence claims administration and issuance of benefits checks.

H. Management Information Reports

Contractor shall:

1. Prepare and submit to the County not later than the 20th 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 2020 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 Performance Reports

3. County will provide designation of enrollment in the reporting groups for the claims reporting.
4. Contractor shall provide reports, either through on-line access and/or electronic format, within 20 calendar days for monthly reports and within 45 calendar days for quarterly and annual reports 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 June 30, 2020.
6. For purposes of Ad-Hoc/Custom reporting, including obtaining information or custom formatting or analysis requiring specific programming, Contractor shall provide report programming at no additional cost.
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, 2020 through June 30, 2020, 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 appeals and second level independently reviewed appeals reviews) under the scope of this Contract, as specified in Attachment G.
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 at least 30 days advance notice, where possible, 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 claims 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. At the County's request, Contractor shall facilitate and provide support for a one-time pre-implementation review audit completed prior to going live; conducted by the County's designee, to ensure the County's benefits, account structure, Plan provisions, administrative procedures, and exceptions have been set up accurately.
8. 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.

9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. Annually, provide the County with Contractor's audited SOC 1 – Type 2 report (Service Organization Controls).

K. Implementation and Transition

Contractor shall:

1. Provide a Pre-Enrollment toll free number for Plan Participants to call during the period identified on Attachment D, Implementation Plan/Project Schedule.
2. Conduct new Participant welcome calls to Plan Participants, as required, during the period identified on Attachment D, Implementation Plan/Project Schedule.
3. Develop, in collaboration with the County, customized dental identification cards for distribution to Plan Participants.
4. 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.
5. Develop electronic eligibility interfaces necessary to receive eligibility information in the format currently provided by the County's Benefits Center.
6. Update eligibility and mail new Dental identification cards to all Plan Participants by December 17, 2019.

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 H, 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, including weekends and holidays, in order to minimize any disruption to participants.
7. Contractor shall maintain a disaster recovery plan that contemplates a natural disaster 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.

M. 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 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.
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.

Remainder of Page Intentionally Left Blank

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.
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 Work. 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 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 31st.

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
333 W. Santa Ana Blvd., Rm. 137
Santa Ana, CA 92701

Remainder of Page Intentionally Left Blank

ATTACHMENT B, CONTINUED

Ongoing Administration

1. Management and Attorney Dental Plan ASO Base Fees

Fee Charges Per Employee Per Month (PEPM)					
Description	Year 1 2020	Year 2 2021	Year 3 2022	*Year 4 if renewed 2023	*Year 5 if renewed 2024
ASO Fees	\$4.18	\$4.18	\$4.18	\$4.18	\$4.18

2. PPO Network Savings Guarantees

Contractor guarantees to County of Orange Management and Attorney 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, 2020 to December 31, 2020
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. Run-Out Fees

The total processing fees listed for the entire run-out period shall be payable in two (2) equal monthly installments during the first two (2) months following the Contract termination. 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 Claims Run-out fees. The amount of the Claims Run-out Fee will be determined as follows:

The Claims Run-out Charge (ASO fee) x (the average monthly employee count for the three-month period prior to termination) x (3). The total processing fees listed above for the entire run-out period shall be payable in two (2) equal monthly installments during the first two (2) months following the Contract termination.

Remainder of Page Intentionally Left Blank

ATTACHMENT C**Staffing Plan****1. Primary Staff to perform Contract duties**

Name	Classification/Title
Ken Lautsch	Vice President and General Manager, Premier Accounts
Marilyn Dekeyzer	Director, Account Management, Premier Accounts
Julie Ellis	Major Account Manager, Premier Accounts
Jessica Nixon	Senior Account Service Representative, Premier Accounts
Franklin Woo, DDS	Dental Director
Jennifer Stanley	Premier Priority Lead, County of Orange Ombudsman
Janine Boyer	Director, Specialty Benefits Vendor Management
Suzanne Kudirka	Retention Marketing Manager, Premier Accounts
Lorie Johns	Senior Manager, Sales Analysis and Operations

2. Alternate staff (for use only if primary staff are not available)

Name	Classification/Title
Robert Rugani	Premier Priority Supervisor

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 service/class required. Assignment of additional key personnel shall be subject to County's Program Manager approval. County reserves the right to have any of Contractor personnel removed from providing services to County under this Contract. County is not required to provide any reason for the request for removal of any Contractor personnel.

3. Sub-contractor(s), if applicable

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

Company Name	Service
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.

Company Name	Service
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**Implementation Plan and Project Schedule**

County of Orange - January 1, 2020 Dental PPO Implementation	Target Date	Resource
Initiate implementation upon notification from account	Completed	Blue Shield
Implementation Kick-Off Meeting	7/1/2019	Blue Shield, CoO
Determine implementation meeting schedule	7/1/2019	Blue Shield, CoO
Confirm plans and programs	7/9/2019	Blue Shield, CoO
Outline CoO key deliverables, benefit strategy, and timelines	7/9/2019	Blue Shield, CoO
Benefits / Programs / Contracts		
Review and approve 2020 DPSF Document	11/15/19	Blue Shield
Review and approve updated ADA Codes	11/15/2019	Blue Shield, CoO
Group Design, Billing, Reporting		
Draft group structure revisions	7/9/2019	Blue Shield
Review and finalize group structure revisions	7/12/2019	Blue Shield, CoO
Update banking forms related to ASO claims funding process (as applicable)	10/31/2019	CoO
Open Enrollment Readiness		
Confirm open enrollment schedule	8/30/2019	Blue Shield, CoO
Outline logistics for open enrollment onsite events and/or health fairs	TBD based on OE schedule	Blue Shield, CoO
Product Configuration and Group Build		
Initiate Product Build and Group Order Requests	7/31/2019	Blue Shield
Configure Product and complete QA	8/14/2019	Blue Shield Configuration
Complete group build in BSC system	7/18/2019	BSC Install
Eligibility and Enrollment - Electronic Enrollment (inbound to BSC EDI 834 File)		
Develop new group structure mapping	7/17/2019	Blue Shield eExchange Vendor
Review new group structure mapping	7/18/2019	Blue Shield eExchange Vendor, CoO Benefits Administrator
EDI file testing initiated	8/16/2019	CoO Benefits Administrator
EDI file testing completed and production file approved	9/16/2019	Blue Shield eExchange Vendor, CoO Benefits Administrator
Production file received	12/4/2019	CoO Benefits Administrator
Enrollment data transferred to Dental Services Administrator	12/10/2019	Blue Shield
Complete loading and audit of enrollment	12/11/2019	Blue Shield
Complete loading and audit of enrollment	12/13/2019	Dental Services Administrator

ID Numbers and ID Cards		
Discuss ID card revisions	7/26/2019	Blue Shield, CoO
Review initial ID card proofs	8/9/2019	Blue Shield, CoO
Approve ID card proofs	8/16/2019	Blue Shield, CoO
Review and approve production ID cards	12/10/2019	Blue Shield, CoO
Provide membership report	12/12/2019	Blue Shield
Finalize ID number crosswalk from medical to dental	12/17/2019	Blue Shield, Dental Services Administrator
Print and Mail ID cards	12/19/2019	Dental Services Administrator
Develop Communication insert for ID cards mailing	11/1/2019	Blue Shield
Review vendor mailing report (as applicable)	12/20/2019	Blue Shield, Dental Services Administrator
Post Implementation Support		
Validate ongoing eligibility files successfully setup	1/4/2020	Blue Shield, CoO Benefits Administrator
Confirm monthly admin fee bill is accurate	1/11/2020	Blue Shield
Verify weekly claim invoices are generating appropriately	1/11/2020	Blue Shield

Remainder of Page Intentionally Left Blank

ATTACHMENT E

Performance Standards

Self-reported dental claims processing quality results will be based on a monthly minimum sample size of 100 County of Orange dental claims selected at random, using a financial stratified sampling approach. 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.

The service performance standards indicating Book of Business (BOB) shall be measured by the Contractor for all Contractor customers utilizing the same process platform.

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 60 days after the close of each reporting period.

At the close of the calendar year, Contractor will prepare a single 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 60 days after the issuance of the annual report.

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

Remainder of Page Intentionally Left Blank

ATTACHMENT E, CONTINUED

Performance Area	Standard	Definition	Measurement/ Frequency	Penalty/ Amount at risk
Dental Claims Processing				
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 ¼ for each period standard is not met.
2. Financial Payment (Dollar) Accuracy	≥ 99.30%	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 ¼ for each period 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 ¼ for each period the standard is not met.
4. Turnaround Time - Target 1 (TAT)	≥ 94% of all claims processed within 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 pending for external information). County specific results.	Quarterly, with monthly client specific reporting to County.	2% of annual base administrative fees. Penalty will be ¼ for each period the standard is not met.

Performance Area	Standard	Definition	Measurement/ Frequency	Penalty/ Amount at risk
5. Turnaround Time - Target 2	≥ 99% of all claims processed within 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.	1% of annual base administrative fees. Penalty will be ¼ for each period the standard is not met.
Customer/Member Service				
6. Telephone Response Time	≥ -85% of calls answered in 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). County specific results. Call volume does not include calls that are handled by an IVR system.	Quarterly, with monthly client specific reporting to County.	2% of annual base administrative fees. Penalty will be ¼ for each period the standard is not met.
7. Call Quality	≥ 93%	The average of 120 County member calls per quarter utilizing the RISE (R edesigned I ndividual S ervice E valuation) program. County specific results.	Quarterly, with monthly client specific reporting to County.	1% of annual base administrative fees. Penalty will be ¼ for each period the standard is not met.
8. First Call Resolution Rate	≥ 90% of calls to customer service will be resolved within 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 ¼ for each period 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 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.	Quarterly, with monthly client specific reporting to County.	1% of annual base administrative fees. Penalty will be ¼ for each period the standard is not met.

Performance Area	Standard	Definition	Measurement/ Frequency	Penalty/ Amount at risk
Administrative Issues				
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 and reconcile annually upon County specific data.	Annually; County specific.	1% of annual base administrative fees
Account Management & Implementation				
12. Account Team Performance Appraisal	Overall Account Team performance is a composite score of 3 or better on the Account Management Scorecard.	County will evaluate each member of Contractor's designated Account Management Team. Scale is as follows: Score / Description 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 ¼ for each period the standard is not met. Establish weekly conference calls until issue is resolved and client is satisfied.
13. Report delivery	Monthly reports delivered within 20 calendar days and quarterly and annual reports within 45 calendar days following end of reporting period.	Delivery shall be complete upon receipt of reports by the County. Reports are monthly, quarter-to-date, year-to-date, paid claims and lag reports	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
14. Initial Implementation – Client Satisfaction Rating	Implementation performance is a composite score of 3 or better on the Implementation Scorecard.	<p>County will evaluate Contractor’s performance in each area of implementation, including but not limited to:</p> <ul style="list-style-type: none"> • Accessibility of team members • Timeliness of deliverables • System Readiness • Accuracy of benefit and account structure set-up • Member Services readiness • Open Enrollment Assistance <p>Scale is as follows:</p> <p>Score / Description 5 - Exceptional 4 - Exceeds Expectations 3 - Meets Expectations 2 - Minimally Meets Expectations 1 - Does Not Meet Expectations</p>	Measured during the first quarter of 2020.	1% of annual base administrative fees. Applies to first year only.
15. Initial Dental ID Card Mailing	14 calendar days prior to implementation date.	Contractor must mail out initial ID Card to all enrolled members no later than December 17, 2019, provided Contractor receives eligibility file from the County no later than December 10, 2019.	Measured approximately 2 weeks prior to initial effective date.	1% of annual base administrative fees. Applies to first year only

Remainder of Page Intentionally Left Blank

ATTACHMENT F**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:

From	Purpose/Data to be Provided	Frequency	Comments
County's Benefits Center, currently Secova 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 Center.	Full file with reconciliation.
Blue Shield of California.	Dental claims history for run-out claims.	Monthly in 2020.	Format to be determined between Blue Shield of California and Contractor.

ATTACHMENT G

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 G.

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 and independent second level appeal 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 H

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 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, 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.
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 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 may hereafter be amended, with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract.

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, 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 without unreasonable delay and, in any event, within ten business days after discovery, any Use or Disclosure of PHI not provided for by this Business Associate Contract or any Security Incident 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 the same 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 County and the Secretary in a time and manner as determined by County or as designated 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, 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 to satisfy all applicable provisions of HIPAA standards for electronic transactions and code sets, also known as the Electronic Data Interchange (EDI) Standards, at 45 CFR Part 162, as well as all operating rules that apply to standard transactions, submission of certifications to HHS (to the extent HHS permits) concerning standard transactions, and all other electronic data interchange requirements included in the Patient Protection and Affordable Care Act of 2010. Contractor further agrees to ensure that any agent, including a subcontractor that conducts standard transactions on its behalf will comply with the EDI Standards.
13. Contractor agrees that it will determine the minimum necessary type and amount of PHI required to perform its services and will comply with 45 CFR §§ 164.502(b) and 514(d).
14. Contractor agrees to restrict the use or disclosure of PHI as may be agreed to in accordance with 45 CFR § 164.522, to document those restrictions, and to provide to County such documentation upon request and in a prompt and reasonable manner consistent with the HIPAA regulations.
15. Contractor agrees to accommodate alternative means or alternative locations for communicating PHI and to document those alternative means or alternative locations at the request of County or an Individual, pursuant to 45 CFR § 164.522(b), in a prompt and reasonable manner consistent with the HIPAA regulations.
16. Contractor agrees to be the primary party responsible for receiving and resolving requests from an Individual exercising his or her individual rights described in subsections (7), (8), (10), and (15) of this Paragraph C.
17. 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.
18. 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.
19. Contractor shall not receive direct or indirect remuneration for any exchange of PHI otherwise authorized under the Privacy and/or Security Rules without an Individual's authorization.

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 agrees to ensure that access to electronic PHI related to County is limited to those workforce members who require such access because of their role or function.
3. Contractor agrees to implement safeguards to prevent its workforce members who are not authorized to access

such electronic PHI from obtaining access and to otherwise ensure compliance by its workforce with the HIPAA Security Rule.

4. 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 the same restrictions and requirements contained in this Paragraph D of this Business Associate Contract.
5. Contractor shall report to County immediately 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 without unreasonable delay and, in any event, within ten business days after discovery, to the County Privacy Officer at:
 - a. Contractor’s notification may be oral, but shall be followed by written notification within 24 hours of the oral notification.

Rafael Linares, Chief Information Security Officer OCIT – Enterprise Privacy & Cybersecurity 1501 E. St. Andrews Place Santa Ana, CA 92705 (714) 567-7611 Rafael.Linares@ocit.ocgov.com	Linda Le, County Privacy Officer, CHPC,CHC,CHP OCIT – Enterprise Privacy and Cybersecurity 1501 E. St. Andrews Place Santa Ana, CA 92705 (714) 834-4082 Linda.Le@ocit.ocgov.com or privacyofficer@ocgov.com
---	---

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 and any governmental entities requiring notification at the sole discretion of the County. Such notification will contain the elements required in 45 CFR § 164.410 or applicable state law. Contractor agrees that the County will be given reasonable advance opportunity to review the proposed notice or other related communications to any individual or third party regarding the breach; the County may propose revised or additional content to the materials which will be given reasonable consideration by Contractor (or its agent).
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 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 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, 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.
5. Contractor shall share PHI as reasonably requested by the County to carry out its responsibilities as plan administrator of the Plan(s), including, without limitation, for purposes of auditing the performance of Contractor.

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, if Contractor is unwilling or unable to cure the material breach or end the violation within (30) days, provided termination of the Contract is feasible.
2. Upon termination of the Contract, 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.

ATTACHMENT I

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 11:00 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 I 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.

Remainder of Page Intentionally Left Blank

EXHIBIT 1

Management and Attorney Dental Plan

See Separate Exhibit