

February 10, 2021

Deanne Meadows
Assistant Superintendent of HR
Brunswick County Schools
35 Referendum Dr NE
Bolivia, NC 28422-7578

Dear Deanne Meadows,

Thank you for choosing Delta Dental! We are pleased that you selected us for your dental plan, and we hope that your members will find Delta Dental coverage to be a valuable benefit.

Enclosed is the contract effective September 1, 2021 between Delta Dental and Brunswick County Schools, Client Number 1295-0001, 0099. Please review this contract carefully and, if you have questions or changes, please contact me immediately at (919) 424-1036.

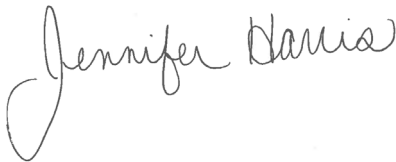
Please have your group's authorized representative sign the contract and return it to me at your earliest convenience. Please send the signed contract to my attention at:

Delta Dental
Attn: Jennifer R Harris
4242 Six Forks Road, Suite 970
Raleigh, NC 27609

If we are not in receipt of the signed contract by the effective date, we will consider remittance of payment as acceptance of the contract, and we will begin administering your dental benefits accordingly. By permitting us to do so, you accept the terms of this contract in full and agree that this contract is binding, even if you do not return a signed copy of the contract to us.

We appreciate your prompt attention to this important matter. We look forward to providing you with the best dental benefits programs and services available.

Sincerely,



Jennifer R Harris
Client Manager



Delta Dental Service Contract For Brunswick County Schools

This Service Contract ("Contract") is entered into by and between Brunswick County Schools (the "Contractor") and Delta Dental of North Carolina, a North Carolina non-profit corporation ("Delta Dental"). Delta Dental agrees to perform claims administration services for the Contractor's self-funded dental benefit plan. Contractor and Delta Dental may be singularly referred to herein as "Party" and collectively referred to herein as the "Parties". This is a legally binding contract between the Contractor and Delta Dental and is effective on September 1, 2021, the ("Effective Date").

SECTION I - DECLARATIONS

The benefits afforded are only with respect to such benefits as are indicated in this Contract, including the Summary of Dental Plan Benefits. Delta Dental's liability is limited to the benefits stated herein; subject to all the terms of this Contract having reference thereto. This Declarations Section and the Summary of Dental Plan Benefits supersedes any contrary provision of the subsequent sections of this Contract.

- A. **Effective Date:** 12:01 A.M. Standard Time, September 1, 2021
- B. **First Renewal Date:** September 1, 2024
- C. **Client Number:** 1295-0001, 0099
- D. **Rate(s):**
See Addendum
- E. **Performance Guarantee(s):** See Addendum

DELTA DENTAL OF NORTH CAROLINA

BY: 
President and CEO

DATE: February 10, 2021

CONTRACTOR

BY: _____
(Authorized Signature)

(Title)

BY: _____
(Witnessed By)

(Title)

DATE: _____

ADDENDUM

Brunswick County Schools
1295-0001, 0099
September 1, 2021

D. Rate(s):

Administrative Service Fee: Composite - \$4.06 per month per Enrollee

This rate is contingent upon the enrollment of a minimum of 75 percent of the eligible members of the defined group and their eligible dependents with the full cost paid by the member. In addition to the Administrative Service Fee, Delta Dental shall invoice Contractor for the Cost of Claims for the preceding week every Tuesday. Payment shall be due via Electronic Funds Transfer on or before Friday of that week. Rates do not include any applicable claims taxes.

These rates assume that claims from nonparticipating dentists will be paid using our national Table 90.

Delta Dental agrees to accept self-billing of administrative fees provided the Contractor agrees to an annual settlement of fees as follows:

If payments for each 12-month period of the Contract are less than 99% of the billed administrative fees based upon the eligibility submitted to Delta Dental by the Contractor, the Contractor will remit within 90 days of the end of each 12-month period the difference between the amount paid to date for the Contract and the billed amount as calculated by Delta Dental.

E. Performance Guarantee(s):

The following Performance Guarantees have been agreed to by both parties.

In the event this Agreement is terminated by either party before its First Renewal Date, these Performance Guarantees are null and void. These Performance Guarantees will only be tracked, reported, and paid on a calendar-year basis for each full calendar year that this Agreement is in effect. In addition, if Delta Dental's performance meets or exceeds the guaranteed performance for three consecutive years, Delta Dental will have no further liability for tracking, reporting, or refunding administration costs for Performance Guarantees.

The total refund in any calendar year will not exceed 50 percent of the Contractor's total annual administration costs. Total annual administration costs equal the annual exposure multiplied by the per Subscriber administration cost, excluding commissions, if payable.

1. Turnaround Time Guarantee

Delta Dental guarantees to process 95 percent of all dental claims for all Contractors within ten business days (measured from the date a completed claim is received to the date it is adjudicated in the claim system or denied).

If Delta Dental does not meet this guarantee each calendar year, Delta Dental will refund one percent of the Contractor's total annual administration costs for each one percent below the 95 percent goal.

2. No Balance Billing Guarantee

When Dentists sign contracts to participate with Delta Dental, they agree to accept Delta Dental's determination of payment as the full fee for covered services. If a Participating Dentist's Submitted Fee is higher than the amount that Delta Dental's approves, they agree not to charge the difference to Subscribers (or "balance bill" Subscribers). Delta Dental guarantees Subscribers will not be balance billed by Participating Dentists.

If a Subscriber is balance billed by a Participating Dentist, Delta Dental guarantees to investigate each occurrence and, when appropriate, to make the Subscriber whole.

3. Telephone Average Speed of Answer Guarantee

Delta Dental guarantees that the annual average speed of answer of all calls to Delta Dental's customer service department will be 25 seconds or less.

If Delta Dental does not meet this guarantee each calendar year, Delta Dental will refund one percent of the Contractor's total annual administration costs for each second above 25 seconds.

4. Telephone Abandonment Rate Guarantee

Delta Dental guarantees that the annual call abandonment rate for Delta Dental's customer service department (or the rate of callers who hang up before Delta Dental's customer service staff answers their call) will be five percent or less.

If Delta Dental does not meet this guarantee each calendar year, Delta Dental will refund one percent of the Contractor's total annual administration costs for each one percent that the call abandonment rate exceeds the five percent goal.

5. Claims Financial Accuracy Guarantee

Delta Dental guarantees that the financial accuracy rate, measured as the total claim dollars paid correctly divided by the total claim dollars audited in a statistically valid sample from all claims paid from all groups, with errors including the absolute value of all overpayments and underpayments, will be at least 99 percent.

If Delta Dental does not meet this guarantee each calendar year, Delta Dental will refund one percent of the Contractor's total annual administration costs for each one percent of claims paid below the 99 percent goal.

6. Claims Payment Accuracy Guarantee

Delta Dental guarantees that the payment accuracy rate, measured as the number of claims paid correctly divided by the number of claims audited in a statistically valid sample from all claims paid from all groups, with errors including all overpayments, underpayments, and dollars paid to the wrong payee, will be at least 98 percent.

If Delta Dental does not meet this guarantee each calendar year, Delta Dental will refund one percent of the Contractor's total annual administration costs for each one percent of claims paid below the 98 percent goal.

7. Claims Processing Accuracy Guarantee

Delta Dental guarantees that the processing accuracy rate, measured as the number of correctly processed paid claims divided by the total number of claims audited in a statistically valid sample from all claims paid from all groups, will be at least 98 percent. The processing accuracy rate measures all types of errors, not just financial errors.

If Delta Dental does not meet this guarantee each calendar year, Delta Dental will refund one percent of the Contractor's total annual administration costs for each one percent of claims paid below the 98 percent goal.

8. Satisfactory Account Management Guarantee

Delta Dental guarantees that the Contractor will be satisfied with the management of the account.

If the Contractor is not completely satisfied with its account management each calendar year as indicated by a grade of B or above on Delta Dental's annual account management report card, Delta Dental will refund five percent of the Contractor's total annual administration costs.

10. Panel Savings Guarantee

Delta Dental guarantees that the Contractor's annual savings from fee and policy reductions, as reported on the Contractor's annual Treatment Savings report, will be at least 13.9 percent.

This percentage will be calculated by dividing (a) the sum of Fees not Allowed Due to Processing Policies, Fee Reduction (both Member and Non-member Dentists), and Savings from Dental Consultant Review by (b) total charges less Invalid Claims and All Other Savings.

If Delta Dental does not meet this guarantee each calendar year, Delta Dental will refund any deficit where the Contractor's actual annual percentage as defined above is not at least 13.9 percent; up to a maximum of 25 percent of the Contractor's total annual administration costs.

SECTION II - DEFINITIONS

The following words and terms have the following meanings unless the context or use clearly indicates another meaning or intent. Capitalized words and terms not defined below are defined in the Certificate.

ADMINISTRATIVE SERVICE FEE means the fee charged by Delta Dental for the administrative services performed under this Contract.

BENEFIT MANAGER TOOLKIT means Delta Dental's online portal used for eligibility updates and Dental Plan information.

COBRA means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

CONTRACT means this document, including the Certificate and applicable Summary(ies) of Dental Plan Covered Services (the terms of which are incorporated herein), the materials submitted by the Contractor in applying for coverage, and, if applicable, any appendices, supplements, riders, successor agreements, renewal letters, or renewals now or hereafter issued or executed.

COST OF CLAIMS means the total amount of Claims payments made by Delta Dental for Covered Services for which the Contractor must reimburse Delta Dental.

ERISA means the Employee Retirement Income Security Act of 1974, as amended.

SECTION III - ERISA

Contractor, or a person designated by Contractor (other than Delta Dental), shall be the Named Fiduciary of the Contractor's Dental Plan as that term is defined by ERISA §402(a)(2). To the extent Contractor has delegated to Delta Dental the responsibility and discretionary authority to make final claims determinations, Delta Dental shall be the named fiduciary with respect to such determinations. Any determination or interpretation made by Delta Dental pursuant to this authority is binding on the Member and the Contractor unless it is demonstrated that the determination was arbitrary and capricious. In the event final claims determinations are made by any other entity, Delta Dental shall not be a fiduciary with respect to such determinations. Furthermore, to the extent that Delta Dental is deemed to possess any plan assets of the Dental Plan, Delta Dental will be a fiduciary with respect to such assets to the extent that Delta Dental exercises discretion and control over such assets. Except as otherwise stated herein, Delta Dental shall not have any further discretionary authority or control respecting the management of the Dental Plan or the Dental Plan's assets, if any, and the Contractor retains all responsibility and authority, including all other fiduciary responsibilities, as defined in ERISA, for operation of the Dental Plan.

SECTION IV - ELIGIBILITY AND ENROLLMENT

- A. Contractor shall have sole responsibility for determining the eligibility of, and shall manage the enrollment, disenrollment, and contribution obligations of all Members.
- B. As a condition of enrollment, the Contractor shall require all Members to provide Delta Dental with all information needed to process claims and administer Covered Services. Such information may include, but not be limited to, the Member's dental records. In the event a Member fails and/or refuses to provide Delta Dental with requested information, Delta Dental may place the Member's coverage on hold.
- C. Contractor shall provide Delta Dental with an initial eligibility upload of all Members. Such eligibility upload shall be in a form and format acceptable to Delta Dental. Thereafter, Contractor shall provide Delta Dental with eligibility updates on an as needed basis, which in no event shall be less than monthly. Contractor shall promptly respond to any requests for information made by Delta Dental concerning the eligibility of a Member.
- D. Contractor shall be solely responsible for the accuracy and delivery of all eligibility information submitted to Delta Dental. Delta Dental shall not be liable for any losses or damages resulting from eligibility information provided by Contractor and/or any other third party.
- E. Unless otherwise stated in the Declarations Section of this Contract, no retroactive eligibility updates will be accepted for an effective date more than 90 days from the date of notification. If the Contractor requests that an Enrollee's eligibility be terminated retroactively and a claim was incurred for that Enrollee or that Enrollee's Eligible Dependent after the requested termination date, the Enrollee's eligibility will continue until the end of the month in which the claim occurred, and Contractor shall be responsible for all Cost of Claims and applicable Administrative Service fees for services that were rendered to the Enrollee or Dependent up until the effective termination date. In addition, in the event that an Enrollee or Dependent is retroactively added, Contractor shall be responsible for all Cost of Claims and applicable Administrative Service fees for services that were rendered to the Enrollee or Dependent from the effective addition date forward.
- F. Upon reasonable prior written notice, Delta Dental shall have the right to audit the accuracy of Contractor's eligibility information. Contractor's refusal to permit such audit shall be deemed a material breach of this Contract.

- G. Contractor shall be solely responsible for identifying Members entitled to COBRA continuation Covered Services. Contractor shall provide all required notices, collect all necessary payments, and otherwise administer all facets of its COBRA program. In the event that Contractor continues to provide eligibility information to Delta Dental for a Member during the COBRA election period, as opposed to terminating coverage and then retroactively reinstating a Member upon the Member's election of COBRA coverage, Contractor shall be liable for any Claim paid during that period if the Member ultimately does not elect COBRA coverage.
- H. In the event that a Member undergoes a change in eligibility, Contractor must notify Delta Dental of such change. Any failure by Contractor to provide timely notice of eligibility changes may result in Covered Services being improperly administered. Contractor shall be solely responsible for such failures. Contractor must notify Delta Dental immediately for any change in a Member's eligibility. In the event Contractor does not notify Delta Dental immediately, Contractor shall be responsible for any paid Claims.
- I. If the Contractor elects to transmit eligibility information via the Benefit Manager Toolkit, Contractor shall execute all proper authorization forms prior to accessing Delta Dental's systems.
- J. Delta Dental will deliver to the Contractor an electronic copy of the Certificate for distribution to each Enrollee, unless otherwise agreed to in writing by the Parties.
- K. The Contractor will timely distribute to each of its Enrollees the Certificates and other information provided by Delta Dental regarding the Covered Services available under this Contract, unless otherwise agreed to in writing by the Parties.
- L. Delta Dental shall furnish the Contractor with enrollment forms and related informational materials necessary and appropriate to enroll the Contractor's Members. Delta Dental shall provide reasonable assistance to Contractor on an as needed basis during the enrollment process.
- M. In the event of any material changes in enrollment or composition of Members or if invoices are not paid as billed, unless otherwise agreed to in writing, Delta Dental shall have the right in its sole discretion to either:
 1. Terminate this Contract pursuant to Section IX; or
 2. Propose an adjustment to the Administrative Service Fee; or
 3. If the proposed adjustment to the Administrative Service Fee is not accepted by Contractor within 30 days of receipt of the proposed adjustment, Delta Dental reserves the right to terminate this Contract.

SECTION V – COVERED SERVICES

- A. Delta Dental shall administer and make payment for Covered Services in accordance with this Contract and the Certificate attached hereto. Contractor may request changes to the Covered Services available to Members by submitting the request in writing to Delta Dental. Changes to Covered Services are subject to Delta Dental's approval and may cause an increase to the Administrative Service Fee. Any changes to Covered Services must be agreed to in writing by Delta Dental prior to implementation.

SECTION VI - DELTA DENTAL NETWORK

- A. Delta Dental shall provide Members with an established network of dentists ("Participating Dentists") who have agreed to accept Delta Dental's Maximum Approved Fees for Covered Services. Delta Dental has complete discretion when setting the Maximum Approved Fees. For a detailed description of how payment is made, see Section V of the applicable Certificate.
- B. Delta Dental shall ensure that there are an adequate number of qualified and credentialed Participating Dentists.
- C. Delta Dental is under no obligation to contract with any particular dentist and/or maintain any particular Participating Dentist in its network. In addition, Delta Dental is under no obligation to recommend or refer any dentist to a Member.
- D. Contractor acknowledges and agrees that:
 1. Delta Dental does not provide, direct, or control the provision of dental services to Members.
 2. All decisions regarding dental services are made solely by the Member and his or her dentist; and
 3. Delta Dental does not warrant or guarantee that the dental services received by a Member from his or her dentist will be rendered in accordance with generally accepted standards or procedures.

SECTION VII - CLAIMS AND APPEALS

- A. Delta Dental will adjudicate and process all clean Claims submitted for Contractor's Dental Plan, in accordance with this Contract, the Certificate and Delta Dental's standard operating procedures. . Clean Claims are those Claims that contain all information necessary for Delta Dental to process the Claim. In the event that Delta Dental does not receive a clean Claim, the Claim will be not be billable to the patient.
- B. Subject to the terms of this Contract and unless otherwise stated in the Declarations Section, Delta Dental has complete discretion to process Claims received under Contractor's Dental Plan. As such, Delta Dental shall, without limitation, make determinations regarding:
 - 1. Coordination of benefits,
 - 2. The applicability of Benefit waiting periods, limitations and exclusions; and
 - 3. The quality of care provided to Members by a treating dentist.
- C. Delta Dental shall provide Pre-Treatment Estimates to Members and Participating Dentists upon request as set forth in the Certificate. A Pre-Treatment Estimate is a voluntary and optional process where Delta Dental issues a written estimate of Benefits that may be available under the Dental Plan. A Pre-Treatment Estimate is not a prerequisite or condition for approval of future Benefits payment. Receipt of a Pre-Treatment Estimate does not guarantee payment or coverage, and is not a formal adjudication of a Claim. Pre-Treatment Estimates do not assess whether a Member is specifically eligible for a Covered Service or whether he or she has reached any applicable annual or lifetime maximum payments under the Dental Plan.
- D. Delta Dental will follow established procedures for resolving all adverse Claims determination questions asserted by a dentist, or Member as set forth in the Certificate ("Claims Appeal Procedure"). The Claims Appeal Procedure shall contain processes for appealing initial adverse determinations made by Delta Dental. To the extent the Dental Plan is governed by ERISA, Delta Dental's procedures shall comply with ERISA and any regulations or guidelines thereunder. All determinations made according to the Claims Appeal Procedure will be final and binding on the Participating Dentist and the Member, unless otherwise stated in the Declarations Section of this Contract; provided, however, that the Member may exercise any additional legal rights he or she may have.
- E. Payments made directly to a Member as reimbursement for Covered Services under the Dental Plan are for the personal benefit of such Member and cannot be transferred or assigned, unless otherwise stated in the Declarations Section of this Contract. Delta Dental shall not honor attempts to assign Benefits unless required to by law.
- F. Delta Dental shall use reasonable efforts to recover any overpayments on Contractor's behalf. Delta Dental is under no obligation to engage in litigation in an attempt to recover such payments. Any funds recovered by Delta Dental will be properly credited to Contractor. Notwithstanding the foregoing, Delta Dental will be responsible for any overpayments made due to Delta Dental's negligence or breach of this Contract.
- G. Delta Dental does not insure or underwrite risk for Claims submitted on behalf of Members. The Contractor retains sole responsibility for all Claims properly paid by Delta Dental under this Contract.

SECTION VIII - PAYMENT

- A. The Contractor agrees to reimburse Delta Dental for the actual Cost of Claims and the invoiced Administrative Service Fee as set forth in the Declarations Section of this Contract. Delta Dental shall not be obligated to accept partial or late payments and acceptance of a partial or late payment will not waive Delta Dental's remedies under this Contract, or otherwise modify the terms herein.
- B. The Contractor shall maintain funds necessary to satisfy its obligations under this Contract.
- C. Unless otherwise stated in the Declarations Section of this Contract, payment for Administrative Service Fees shall be due on the fifth of each month. An invoice for the current month's Administrative Service Fees shall be sent on or about the third week of the preceding month.
- D. The Contractor is responsible for the full amount of all invoices regardless of any contribution owed by the Members to the Contractor. Delta Dental shall not be responsible for collecting any contributions from Members.
- E. If required by Delta Dental, Contractor shall deposit an amount specified in the Declarations Section of this Contract ("Prefund") with Delta Dental. The Prefund shall serve as a deposit to offset against any untimely or partial payments from Contractor. In the event Delta Dental uses any of the Prefund to offset untimely or partial payments, Delta Dental shall submit an invoice to the Contractor in the amount necessary to replenish the Prefund. If the Contractor fails to timely replenish the Prefund, Delta Dental shall be entitled to all remedies set forth in Section XI.

SECTION IX - TERM AND TERMINATION

- A. The term of this Contract shall remain in full force and effect for the initial term commencing on the Effective Date and continuing to the First Renewal Date, as specified in the Declarations Section. Thereafter, the Contract may be renewed for subsequent terms as specified in the Declarations Section or in a renewal letter, unless Contractor or Delta Dental provides written notice of its intent not to, renew at least (30) days prior to the expiration of the then current term.
- B. In the event of a Party's material breach, the non-breaching Party may terminate this Contract by sending written notice to the breaching Party explaining in detail the nature of the breach and providing an opportunity to cure, which in no event shall be less than 30 days. In the event the material breach is not cured within the notice period, the non-breaching party may immediately terminate this Contract.
- C. Unless otherwise stated in the Declarations Section of this Contract, this Contract may be terminated by either Party without cause upon 60 days' written notice to the other Party.
- D. There shall be a twelve month run-out period for all Claims incurred prior to the termination date, except in cases where Delta Dental has terminated this Contract for cause. All Claims paid by Delta Dental during this run-out period shall be invoiced to the Contractor in accordance with Section VII of this Contract. Any Claims for services rendered after the termination date shall be denied. After the conclusion of the twelve month run out period, Claims shall be denied and Delta Dental shall not have any further obligations to the Contractor.
- E. Following the Claims run-out period, Delta Dental shall prepare a final settlement statement and invoice for Contractor. Such settlement statement and invoice shall detail the final amounts due and owing between the Parties including, to the extent applicable, any remaining Prefund deposited by the Contractor, all outstanding Administrative Service Fees and all remaining Claims payments made during the run-out period.
- F. Any false or misleading statements made by either Party shall be considered a material breach of this Contract.

SECTION X - CONFIDENTIALITY AND DISCLOSURE

- A. The Parties have entered into a Business Associate Agreement regarding the permissible use and disclosure of Member's protected health information as that term is defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and all subsequent amendments thereto. The Business Associate Agreement is attached as an Addendum hereto.
- B. The Parties acknowledge that in the course of performing under this Contract each Party may be provided with or given access to information, in oral, recorded or written form, that is proprietary and confidential to the other Party (collectively referred to as the "Confidential Information"). Such Confidential Information includes, but is not limited to: information regarding the other Party's management, business, organizational structure, policies, procedures, business relationships, intellectual property, copyrights, patents, trademarks, software, data, databases, system designs, specifications, documentation, code, architecture, structure, algorithms, techniques, processes, protocols, product materials, notes, slides, ideas, Maximum Approved Fees, Allowed Amounts, preferred provider reports, actuarial formulas, providers' personal information, and financial terms of this Contract..
- C. Confidential Information shall not include any information that:
 - 1. Is already known to the Party at the time of the disclosure (as evidenced by written documentation existing at that time);
 - 2. Is generally available to the public or becomes publicly known through no wrongful act of a Party; or
 - 3. Is received by a Party from a third-party who had a legal right to provide it (as evidenced by written documentation existing at that time).
- D. The Parties each will make all reasonable, necessary and appropriate efforts to safeguard each other's Confidential Information. Each Party will safeguard the other's Confidential Information to the same extent that it safeguards information relating to its own business, which in no event will be less than the safeguards that a reasonably prudent business would exercise under similar circumstances.
- E. Each party agrees not to use, distribute or exploit each other's Confidential Information, in whole or in part, for its own benefit or that of any third party and will not disclose such Confidential Information to any other person, or entity without each other's prior written consent. A Party shall be responsible for any breach of this Contract by its employees, authorized subcontractors, agents or representatives.

- F. Notwithstanding anything to the contrary in this Section, the Parties shall be permitted to disclose Confidential Information as required by order of a court of law, administrative agency, or other governmental body; provided, however, the Party shall provide reasonable advance written notice to the other Party to the extent allowed by law in order to allow that Party the opportunity to seek a protective order or otherwise limit such disclosure, and the disclosing Party shall reasonably cooperate with the other Party to limit any such disclosure or to seek a protective order. If a Party is nonetheless required to disclose the other Party's Confidential Information, said Party shall only disclose the minimum information necessary to respond to the legal request. Notwithstanding the foregoing, Delta Dental shall not be required to provide Contractor notice prior to responding to governmental agency subpoenas regarding potential provider fraud or abuse.

SECTION XI - RIGHTS AND REMEDIES

- A. In addition to the right of termination described in Section IX, Delta Dental shall have the following rights and remedies in the event Contractor fails to timely pay in full the Administrative Service Fees or reimburse Delta Dental for the Cost of Claims, subject to Contractor's right to cure pursuant to Section IX.B.:
1. Delta Dental may retroactively terminate this Contract to the date it last received payment; and
 2. Delta Dental may initiate proceedings to recover and collect all payments due and owing, as well as all costs associated with the collection proceedings including, but not limited to, attorneys' fees.
- Notwithstanding the foregoing, Delta Dental may immediately suspend payment of all Claims in the event that it does not receive timely payment of the Administrative Service Fees or reimbursement for the Cost of Claims.
- B. No claim, lawsuit or action, may be brought more than three years after the claim first arose.
- C. Either Party's failure to exercise any right or remedy contained herein shall not constitute a waiver of any future rights or remedies available to that party.

SECTION XIII - GENERAL PROVISIONS

- A. **Subrogation.** The Contractor shall retain all subrogation rights resulting from Claims paid by Delta Dental. In the event the Contractor elects to pursue a subrogation matter, Delta Dental shall provide reasonable assistance to the Contractor. Such assistance shall be limited to providing the Contractor with documents, records and demand letters.
- B. **Right to Review Published Materials.** Contractor agrees not to publish or distribute any materials containing the logo, trademark, or business mark of Delta Dental, or containing a change in the benefits to be administered under this Contract, until Delta Dental reviews and, with respect to the use of Delta Dental's logo, trademark, or business mark, approves the materials. This provision does not apply to materials that Delta Dental has provided to Contractor for distribution.
- C. **Cooperation.** The Contractor shall provide Delta Dental with any information it may reasonably require to administer the Dental Plan or otherwise discharge its duties under this Contract.
- D. **Indemnification.**
1. Each Party agrees to defend, indemnify, and hold harmless the other Party and its directors, officers, affiliates, agents, and employees (who are acting in the course of their employment, but not as claimants) from any loss, cost, or expense (including reasonable attorney fees and court costs) ("Losses") resulting from or arising out of or in connection with the indemnifying Party's breach of this Contract, or any negligent act or omission of any of the indemnifying Party's directors, officers, agents or employees, unless liability for such act or omission is expressly assigned elsewhere in this Contract.
 2. The indemnifying Party shall provide prompt written notice of relevant information concerning any Losses to the indemnified Party. Reasonable assistance (at the indemnifying Party's expense) may be requested by the indemnified Party in connection with the defense of any Losses. Notwithstanding the foregoing:
 - a. the indemnified party shall permit the indemnifying Party to control the defense or settlement of the claim, suit or proceeding at the indemnifying party's expense;
 - b. the indemnified Party shall have the right to provide for its separate defense at its own expense;
 - c. Neither Party shall settle any Losses without the consent of the other Party, which consent shall not be unreasonably withheld. Any release obtained as a result of settlement must contain a release of all claims against the indemnified Party as well as its officers, directors and employees, and
 - d. The indemnification obligations of indemnifying Party hereunder shall not extend to Losses attributable to the negligence, intentional misconduct, or willful malfeasance of the indemnified Party.

- E. **Notice.** Any notice required or permitted to be given under this Contract will be considered given if in writing and personally delivered, or if in writing and deposited in the United States mail with postage prepaid, addressed to the other Party at its last address of record.
- F. **Survival.** The following Sections shall survive expiration or early termination of this Contract: Section VIII. Payment; Section X. Confidentiality & Disclosure; Section XI. Rights and Remedies; and Section XII. General Provisions.
- G. **Internal Policies and Procedures.** Delta Dental has the right to amend its internal policies and procedures periodically and without notice to the Contractor to the extent the amendment does not affect the delivery of benefits to Members. Delta Dental will provide advance written notice, to the extent possible, to Contractor of any amendment to Delta Dental's policies or procedures that affect the delivery of benefits to Members; if advance notice is not possible, Delta Dental will provide written notice as soon as possible after the amendment is adopted.
- H. **Third Party Beneficiaries.** This Contract will not confer any rights or remedies on any third- party, other than the Parties to this Contract and their respective successors and permitted assigns.
- I. **Assignment and Subcontracting.** Unless it has first obtained the written consent of the other Party, neither Party may assign this Contract or any of its rights or obligations under this Contract to any other person, except that Delta Dental may make assignments to its subsidiaries and affiliates without the prior written consent of the Contractor.
- J. **Integration.** This Contract constitutes the entire understanding between the Parties with respect to the subject matter of this Contract and supersedes any prior discussions, negotiations, agreements and understandings.
- K. **Force Majeure.** Unless otherwise stated in the Declarations Section of this Contract, neither Delta Dental (including its agents, directors, officers, and employees) nor Contractor shall be liable for delays in performance due to circumstances beyond their reasonable control. Each Party shall be excused from performance under this Contract and shall have no liability to the other Party for any period during which it is prevented from performing any of its obligations (other than payment obligations), in whole or in part, as a result of delays caused by the other Party or by an act of God, war, terrorism, civil unrest, civil disturbance, court order, labor dispute, or other cause beyond its reasonable control, including failures or fluctuations in electrical power, heat, light, or telecommunications, and such nonperformance shall not be a default under or grounds for termination of this Contract.
- L. **Applicable Law.** This Contract and the obligations of the Parties under this Contract will be governed by and construed in accordance with ERISA to the extent applicable. If it is determined by a court of competent jurisdiction that ERISA does not apply, the law of the State of North Carolina will control.
- M. **Venue.** The Parties submit to the jurisdiction and venue of the courts of the State of North Carolina.
- N. **Severability.** If any part of this Contract or an amendment of it is found by an arbitrator, court, or other authority to be illegal, void or not enforceable, all other portions of this Contract shall remain in full force and effect.
- O. **Counterparts.** This Contract may be executed in one or more counterparts, each of which will be deemed an original agreement, but all of which will be considered one instrument and will become a binding agreement when one or more counterparts have been signed by each of the Parties and delivered to the other. Electronic and/or fax signatures shall be accepted as original signatures.
- P. **Audits.** The Contractor shall have the right to audit Delta Dental's files, books, and records (both paper and electronic) pertaining to the administrative services provided under this Agreement. The Contractor will bear the entire cost of any such audits. The Contractor may assign this right to audit to an agent, provided the agent is a licensed firm and the audit is led by an individual who holds a nationally recognized audit accreditation. Delta Dental will allow the Contractor or the Contractor's agent to audit the work areas at which services under this Contract are performed, within 14 business days of receipt of a fully-signed confidentiality agreement. Where applicable, Delta Dental agrees to segregate the Contractor's records from third- party records in order to allow accurate assessment of Contractor-specific processes. Such audits will take place no more than once in a 12-month period, unless both the Contractor and Delta Dental mutually agree that there is reasonable cause to conduct an audit more frequently, in which case the Contractor will give 14 business days' written notice before such audit. The scope of any audit conducted under this provision must be mutually agreed upon, in writing, by both parties prior to the start of the audit. Notwithstanding the foregoing, Contractor shall not have the right to audit any information which Delta Dental, in its sole discretion, determines is proprietary.



**Delta Dental PPO plus Premier™
Summary of Dental Plan Benefits
For Group# 1295-0001, 0099
Brunswick County Schools**

This Summary of Dental Plan Benefits should be read along with your Certificate. Your Certificate provides additional information about your Delta Dental plan, including information about plan exclusions and limitations. If a statement in this Summary conflicts with a statement in the Certificate, the statement in this Summary applies to you and you should ignore the conflicting statement in the Certificate. The percentages below are applied to Delta Dental's allowance for each service and it may vary due to the dentist's network participation.*

Control Plan - Delta Dental of North Carolina

Benefit Year - September 1 through August 31

Covered Services -

	Delta Dental PPO Dentist	Delta Dental Premier Dentist	Nonparticipating Dentist
Diagnostic & Preventive			
Diagnostic and Preventive Services - exams, cleanings, fluoride, and space maintainers	80%	90%	100%
Emergency Palliative Treatment - to temporarily relieve pain	80%	90%	100%
Sealants - to prevent decay of permanent teeth	80%	90%	100%
Brush Biopsy - to detect oral cancer	80%	90%	100%
Radiographs - X-rays	80%	90%	100%
Basic Services			
Minor Restorative Services - fillings and crown repair	80%	90%	100%
Periodontic Services - to treat gum disease	80%	90%	100%
Simple Extractions - extractions of erupted teeth	80%	90%	100%
Other Basic Services - misc. services	80%	90%	100%
Relines and Repairs - to bridges, implants, and dentures	80%	90%	100%
Major Services			
Endodontic Services - root canals	50%	50%	50%
Oral Surgery Services - extractions and dental surgery	50%	50%	50%
Major Restorative Services - crowns	50%	50%	50%
Prosthodontic Services - bridges, implants, dentures, and crowns over implants	50%	50%	50%
Orthodontic Services			
Orthodontic Services - braces	50%	50%	50%
Orthodontic Age Limit -	No Age Limit		

* When you receive services from a Nonparticipating Dentist, the percentages in this column indicate the portion of Delta Dental's Nonparticipating Dentist Fee that will be paid for those services. This Nonparticipating Dentist Fee may be less than what your dentist charges, which means that you will be responsible for the difference.

** 80% coinsurance level applies during the First Plan Year the Member is covered. If the Covered Person visits a dentist during the Plan Year, 90% coinsurance and 100% level of reimbursement will apply during the second and third Plan Year, respectively. If, during any Plan Year, the Covered Person fails to visit a dentist, the 80% level will automatically reapply during the following Plan Year, and the Covered Person must advance as if the Covered Person is a new enrollee.

The explanation and sample calculation of how these services will be paid can be found in Section VI - How Payment is Made in your Certificate.

- Oral exams (including evaluations by a specialist) are payable twice per benefit year.
- Two prophylaxes (cleanings) and/or up to four periodontal maintenance are payable per benefit year, not to exceed a total of four procedures in any benefit year.

- People with specific at-risk health conditions may be eligible for additional prophylaxes (cleanings) or fluoride treatment. The patient should talk with his or her dentist about treatment.
- Fluoride treatments are payable once per benefit year for people age 18 and under.
- Space maintainers are payable once per area per lifetime for people age 18 and under.
- Bitewing X-rays are payable twice per Benefit Year for people age 18 and under and once per benefit year for people age 19 and older. Full mouth X-rays (which include bitewing X-rays) are payable once in any five-year period.
- Sealants are payable once per tooth per lifetime for first and second permanent molars and bicuspids for people age 12 and under. The surface must be free from decay and restorations.
- Crowns, inlays, onlays, gold foil restorations, and substructures are payable once per tooth in any ten-year period.
- Composite resin (white) restorations are payable on posterior teeth.
- Inlays (any material) are payable.
- Gold foils are payable.
- Porcelain and resin facings on crowns are payable on posterior teeth.
- Pulp caps are a Covered Service.
- Vestibuloplasty is a Covered Service.
- Full and partial dentures are payable once in any 10-year period.
- Bridges are payable once in any 10-year period. Precision attachments are payable.
- Implants are payable once per tooth in any 10-year period. Implant related services are Covered Services.
- Crowns over implants are payable once per tooth in any 10-year period. Services related to crowns over implants are Covered Services.
- Occlusal guards are not Covered Services. Antibiotic drug injections are Covered Services.

Having Delta Dental coverage makes it easy for you to get dental care almost everywhere in the world! You can now receive expert dental care when you are outside of the United States through our Passport Dental program. This program gives you access to a worldwide network of dentists and dental clinics. English-speaking operators are available around the clock to answer questions and help you schedule care. For more information, check our Web site or contact your benefits representative to get a copy of our Passport Dental information sheet.

Maximum Payment – \$1,250 per person total per Benefit Year on all services, except cephalometric films, photos, diagnostic casts and orthodontic services. \$1,000 per person total per lifetime on cephalometric films, photos, diagnostic casts, and orthodontic services.

Payment for Orthodontic Service – When orthodontic treatment begins, your Dentist will submit a payment plan to Delta Dental based upon your projected course of treatment. In accordance with the agreed upon payment plan, Delta Dental will make an initial payment to you or your Participating Dentist equal to Delta Dental's stated Copayment on 30% of the Maximum Payment for Orthodontic Services as set forth in this Summary of Dental Plan Benefits. Delta Dental will make additional payments as follows: Delta Dental will pay 50% of the per monthly fee charged by your Dentist based upon the agreed upon payment plan provided by your Dentist to Delta Dental.

Deductible – \$50 Deductible per person total per Benefit Year limited to a maximum Deductible of \$150 per family per Benefit Year. The Deductible does not apply to diagnostic and preventive services, emergency palliative treatment, brush biopsy, X-rays, sealants, minor restorative, periodontics, relines and repairs, simple extractions, other basic services, pulp capping, and orthodontic services.

Waiting Period – Employees who are eligible for dental benefits are covered on the first of the month following the date of hire.

Eligible People – All full-time employees who work at least 30 hours per week, and COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985) enrollees, if applicable. The Subscriber pays the full cost of this plan.

Also eligible are your Spouse and your Children to the end of the month in which they turn 26, including your Children who are married, who no longer live with you, who are not your Dependents for Federal income tax purposes, and/or who are not permanently disabled.

Enrollees and dependents choosing this dental plan are required to remain enrolled for a minimum of 12 months. Should an Enrollee or Dependent choose to drop coverage after that time, he or she may not re-enroll prior to the date on which 12 months have elapsed. Dependents may only enroll if the Enrollee is enrolled (except under COBRA) and must be enrolled in the same plan as the Enrollee. An election may be revoked or changed at any time if the change is the result of a qualifying event as defined under Internal Revenue Code Section 125.

If you and your Spouse are both eligible to enroll in This Plan as Enrollees, you may be enrolled together on one application or separately on individual applications, but not both. Your Dependent Children may only be enrolled on one application. Delta Dental will not coordinate Benefits between your coverage and your Spouse's coverage if you and your Spouse are both covered as Enrollees under This Plan.

Benefits will cease on the last day of the month following termination.



Delta Dental PPOSM

Our national PPO program

Welcome!

Your dental program is administered by Delta Dental of North Carolina, a North Carolina nonprofit health service plan corporation. Delta Dental of North Carolina is the state's dental benefits specialist. Good oral health is a vital part of good general health, and your Delta Dental program is designed to promote regular dental visits. We encourage you to take advantage of this program by calling your Dentist today for an appointment.

This Certificate, along with your Summary of Dental Plan Benefits, describes the specific benefits of your Delta Dental program and how to use them. If you have any questions about this program, please call our Customer Service department at (800) 662-8856 or access our website at www.deltadentalnc.com.

You can easily verify your own benefit, claims and eligibility information online 24 hours a day, seven days a week by visiting www.deltadentalnc.com and selecting the link for our Consumer Toolkit. The Consumer Toolkit will also allow you to print claim forms and ID cards, select paperless Explanation of Benefits statements (EOBs), search our Dentist directories, and read oral health tips.

We look forward to serving you!

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Note: Please read this Certificate together with the Summary of Dental Plan Benefits. The Summary of Dental Plan Benefits lists the specific provisions of your group dental plan. If a statement in the Summary conflicts with a statement in this Certificate, the statement in the Summary applies to This Plan and you should ignore the conflicting statement in this Certificate.

NOTICE: IF YOU OR YOUR FAMILY MEMBERS ARE COVERED BY MORE THAN ONE HEALTH CARE AND/OR DENTAL CARE PLAN, YOU MAY NOT BE ABLE TO COLLECT BENEFITS FROM BOTH PLANS. EACH PLAN MAY REQUIRE YOU TO FOLLOW ITS RULES OR USE SPECIFIC DENTISTS, AND IT MAY BE IMPOSSIBLE TO COMPLY WITH BOTH PLANS AT THE SAME TIME. READ ALL OF THE RULES VERY CAREFULLY, INCLUDING THE COORDINATION OF BENEFITS SECTION, AND COMPARE THEM WITH THE RULES OF ANY OTHER PLAN THAT COVERS YOU OR YOUR FAMILY.

I. Delta Dental PPO Certificate

Delta Dental of North Carolina, referred to herein as Delta Dental, issues this Certificate to you, the Subscriber. The Certificate is a summary of your dental benefits coverage. It reflects and is subject to a contract between Delta Dental and the Contractor.

The Benefits provided under This Plan may change if any state or federal laws change.

Delta Dental agrees to provide Benefits as described in this Certificate and the Summary of Dental Plan Benefits.

All the provisions in the following pages form a part of this document as fully as if they were stated over the signature below.

IN WITNESS WHEREOF, this Certificate is executed at Delta Dental's home office by an authorized officer.


Curtis R. Ladig, CPA
President and CEO
Delta Dental of North Carolina

II. Definitions

Adverse Benefit Determination

Any denial, reduction or termination of the benefits for which you filed a claim. Or a failure to provide or to make payment (in whole or in part) of the benefits you sought, including any such determination based on eligibility, application of any utilization review criteria, or a determination that the item or service for which benefits are otherwise provided was experimental or investigational, or was not medically necessary or appropriate.

Allowed Amount

The amount permitted under the applicable fee schedule for this Plan, which was selected by the Contractor, and upon which Delta Dental will base its payment for a Covered Service.

Benefit Year

The period during which any benefit frequency limitation and/or annual maximum payment will apply. This will be the calendar year, unless the Contractor elects a different period to serve as the Benefit Year. (See the Summary of Dental Plan Benefits for your Benefit Year.) If the Benefit Year is based upon a calendar year, the terms Benefit Year and Calendar Year may be used interchangeably.

Benefits

Payment for the Covered Services that have been selected under This Plan.

Certificate

This document. Delta Dental will provide Benefits as described in this Certificate. Any changes in this Certificate will be based on changes to the contract between Delta Dental and the Contractor.

Child(ren)

Your natural Children, stepchildren, adopted Children, foster Children, Children by virtue of legal guardianship, or

Children who are residing with you during the waiting period for adoption or legal guardianship.

Claim

A request for payment for a Covered Service. Claims are not conditioned upon your seeking advance approval, certification, or authorization to receive payment for any Covered Service.

Completion Date

The date that treatment is complete. Some procedures may require more than one appointment before they can be completed. Treatment is complete:

- ◆ For dentures and partial dentures, on the delivery dates;
- ◆ For crowns and bridgework, on the permanent cementation date;
- ◆ For root canals and periodontal treatment, on the date of the final procedure that completes treatment.

Coinsurance

The percentage of the charge, if any, that you must pay for Covered Services.

Contractor

The employer, organization, group, or association sponsoring This Plan.

Covered Services

The unique dental services selected for coverage as described in the Summary of Dental Plan Benefits and subject to the terms of this Certificate.

Deductible

The amount a person and/or a family must pay toward Covered Services before Delta Dental begins paying for those services under this Certificate. The Summary of Dental Plan Benefits lists the Deductible that applies to you, if any.

Delta Dental

Delta Dental of North Carolina, a nonprofit health service plan corporation providing dental benefits. Delta Dental is not an insurance company.

Delta Dental Member Plan

An individual dental benefit plan that is a member of the Delta Dental Plans Association, the nation's largest, most experienced system of dental health plans.

Delta Dental Premier® Dentist Schedule

The maximum fee allowed per procedure for services rendered by a Premier Dentist as determined by that Dentist's local Delta Dental Member Plan.

Deny/Denied/Denial

When a Claim for a particular service is denied for payment due to certain contractual limitations/exclusions. You will be responsible for paying your Dentist the applicable amount for such service regardless of the Dentist's participating status.

Dentist

A person licensed to practice dentistry in the state or jurisdiction in which dental services are performed.

- ◆ **Delta Dental PPO Dentist (“PPO Dentist”)** – a Dentist who has signed an agreement with the Delta Dental Plan in his or her state to participate in Delta Dental PPO.
- ◆ **Delta Dental Premier Dentist (“Premier Dentist”)** – a Dentist who has signed an agreement with the Delta Dental Plan in his or her state to participate in Delta Dental Premier.
- ◆ **Nonparticipating Dentist** – a Dentist who has not signed an agreement with any Delta Dental Plan to participate in Delta Dental PPO or Delta Dental Premier.
- ◆ **Out-of-Country Dentist** – A Dentist whose office is located outside the United States and its territories. Out-of-Country Dentists are not eligible to sign participating agreements with Delta Dental.

Delta Dental PPO Dentists and Delta Dental Premier Dentists are sometimes collectively referred to herein as **“Participating Dentists.”** Wherever a definition or provision of this Certificate differs from another state’s Delta Dental Plan and its agreement with Participating Dentists, the agreement in that state with that Dentist will be controlling.

Delta Dental Premier Dentists, Nonparticipating Dentists, and Out-of-Country Dentists are sometimes collectively referred to herein as **“Non-PPO Dentists.”**

Dependent(s)

Your dependents are as defined by the rules of eligibility as stated in your Summary of Dental Plan Benefits.

Enrollee

You, when the Contractor notifies Delta Dental that you are eligible to receive Benefits under This Plan.

Maximum Approved Fee

A system used by Delta Dental to determine the approved fee for a given procedure for a given Participating Dentist. A fee meets Maximum Approved Fee requirements if it is the lowest of:

- ◆ The Submitted Amount
- ◆ The lowest fee regularly charged, offered, or received by an individual Dentist for a dental service or supply, irrespective of the Dentist’s contractual agreement with another dental benefits organization.
- ◆ The maximum fee that the local Delta Dental Plan approves for a given procedure in a given region and/or specialty, under normal circumstances, based upon applicable Participating Dentist schedules and internal procedures.

Participating Dentists agree not to charge Delta Dental patients more than the Maximum Approved Fee for a Covered Service. In all cases, Delta Dental will make the final determination regarding the Maximum Approved Fee for a Covered Service.

Maximum Payment

The maximum dollar amount Delta Dental will pay in any Benefit Year or lifetime for Covered Services. See the Summary of Dental Plan Benefits for the maximum payments applicable to This Plan.

Member

Any Enrollee or Dependent with coverage under This Plan.

Nonparticipating Dentist Fee

The maximum fee allowed per procedure for services rendered by a Nonparticipating Dentist as determined by Delta Dental.

Open Enrollment Period

The period of time, as determined by the Contractor, during which a Member may enroll or be enrolled for Benefits.

Out-of-Country Dentist Fee

The maximum fee allowed per procedure for services rendered by an Out-of-Country Dentist as determined by Delta Dental.

PPO Dentist Schedule

The maximum fee allowed per procedure for services rendered by a PPO Dentist as determined by that Dentist’s local Delta Dental Member Plan.

Pre-Treatment Estimate

A voluntary and optional process where Delta Dental issues a written estimate of dental benefits that may be available under your coverage for your proposed dental treatment. Your Dentist submits the proposed dental treatment to Delta Dental in advance of providing the treatment.

A Pre-Treatment Estimate is for informational purposes only and is not required before you receive any dental care. It is not a prerequisite or condition for approval of future dental benefits payment. You will receive the same Benefits under This Plan whether or not a Pre-Treatment Estimate is requested. The Benefits estimate provided on a Pre-Treatment Estimate notice is based on Benefits available on the date the notice is issued. It is not a guarantee of future dental benefits or payment.

Availability of dental benefits at the time your treatment is completed depends on several factors. These factors include, but are not limited to, your continued eligibility for benefits, your available annual or lifetime Maximum Payments, any coordination of benefits, the status of your Dentist, This Plan’s limitations and any other provisions, together with any additional information or changes to your dental treatment. A request for a Pre-Treatment Estimate is not a claim for Benefits or a preauthorization, precertification or other reservation of future Benefits.

Processing Policies

Delta Dental’s policies and guidelines used for Pre-Treatment Estimate and payment of claims. The Processing Policies may be amended from time to time.

Special Enrollment Period

A period outside of the Open Enrollment Period in which you or your Dependent can obtain coverage under This Plan due to a qualifying life event.

Spouse

Your legal spouse.

Submitted Amount

The amount a Dentist bills to Delta Dental for a specific treatment or service. A Participating Dentist cannot charge you or your Dependents for the difference between this amount and the Maximum Approved Fee.

Summary of Dental Plan Benefits

A description of the specific provisions of your group dental coverage. The Summary of Dental Plan Benefits is and should be read as a part of this Certificate, and supersedes any contrary provision of this Certificate.

This Plan

The dental coverage established for Members pursuant to this Certificate and your Summary of Dental Plan Benefits.

III. Enrolling in this Plan

The Open Enrollment Period, if applicable, will be established by the Contractor and will occur on an annual basis. During the Open Enrollment Period, all eligible persons as defined in your Summary of Dental Plan Benefits may enroll in This Plan. You and/or your Dependents may not enroll in This Plan at any other time during the applicable Benefit Year except in the following instances:

- a. Newly hired or rehired employees (if applicable): You will be eligible to enroll on the date for which employment compensation begins or, if applicable, that date plus the number of days specified as a waiting period in the Summary of Dental Plan Benefits.
- b. New Spouse: Your new Spouse will be eligible to enroll on the date of marriage.
- c. Newborn: Your newborn will be eligible to enroll on the date of birth.
- d. Legal adoptions or guardianships: Your newly adopted Child(ren) and/or the minor Child(ren) that you and/or your Spouse have guardianship over will be eligible to enroll on the date that the legal petition for adoption or guardianship becomes legally final, or the date on which the Child(ren) begins residing with the Enrollee and the Enrollee assumes responsibility for the Child(ren) while waiting for adoption or guardianship to become final.
- e. New Stepchild: Your new stepchild will be eligible to enroll on the date that the Child's natural parent becomes a Dependent.
- f. To the extent the Contractor permits Dependents other than those defined in this Certificate to enroll in This Plan, such Dependents will be eligible to enroll on the date that they become an eligible Dependent. Any such additional Dependents permitted by the Contractor shall be set forth in your Summary of Dental Plan Benefits.

- g. All others will be permitted on the date that Delta Dental approves in writing the enrollment or listing of those people, unless compelled by a court or administrative order to otherwise provide Benefits for a Dependent.

IV. Selecting a Dentist

You may choose any Dentist. Your out-of-pocket costs are likely to be less if you go to a Delta Dental Participating Dentist.

To verify that a Dentist is a Participating Dentist, you can use Delta Dental's online Dentist Directory at www.deltadentalinc.com or call (800) 662-8856.

V. Accessing Your Benefits

To utilize your dental benefits, follow these steps:

1. Please read this Certificate and the Summary of Dental Plan Benefits carefully so you are familiar with your benefits, payment methods, and terms of This Plan.
2. Make an appointment with your Dentist and tell him or her that you have dental benefits with Delta Dental. If your Dentist is not familiar with This Plan or has any questions, have him or her contact Delta Dental by writing to Delta Dental, Attention: Customer Service, P.O. Box 9089, Farmington Hills, Michigan 48333-9089, or calling the toll-free number at (800) 662-8856.
3. After you receive your dental treatment, you or the dental office staff will file a claim form, completing the information portion with:
 - a. The Enrollee's full name and address
 - b. The Enrollee's Member ID number
 - c. The name and date of birth of the person receiving dental care
 - d. The Contractor's name and number

Notice of Claim Forms

Delta Dental does not require special claim forms. However, most dental offices have claim forms available. Participating Dentists will fill out and submit your dental claims for you.

Mail claims and completed information requests to:

Delta Dental
P.O. Box 9085
Farmington Hills, Michigan 48333-9085

Pre-Treatment Estimate

A Pre-Treatment Estimate is not required to receive payment, but it allows claims to be processed more efficiently and allows you to know what services may be covered before your Dentist provides them. You and your Dentist should review your Pre-Treatment Estimate Notice before treatment. Once treatment is complete, the dental office will submit a claim to Delta Dental for payment.

Written Notice of Claim and Time of Payment

Because the amount of your Benefits is not conditioned on a Pre-Treatment Estimate decision by Delta Dental, all claims under This Plan are Post-Service Claims. All claims for Benefits must be filed with Delta Dental within

one year of the date the services were completed. Once a claim is filed, Delta Dental will decide it within 30 days of receiving it. If there is not enough information to decide your claim, Delta Dental will notify you or your Dentist within 30 days. The notice will (a) describe the information needed, (b) explain why it is needed, (c) request an extension of time in which to decide the claim, and (d) inform you or your Dentist that the information must be received within 45 days or your claim will be denied. You will receive a copy of any notice sent to your Dentist. Once Delta Dental receives the requested information, it has 15 days to decide your claim. If you or your Dentist does not supply the requested information, Delta Dental will have no choice but to deny your claim. Once Delta Dental decides your claim, it will notify you within five days.

Authorized Representative

You may also appoint an authorized representative to deal with Delta Dental on your behalf with respect to any benefit claim you file or any review of a denied claim you wish to pursue (see the Claims Appeal Procedure section). You should contact your Human Resources department, call Delta Dental's Customer Service department, toll-free, at (800) 662-8856, or write them at P.O. Box 9089, Farmington Hills, Michigan, 48333-9089, to request a form to designate the person you wish to appoint as your representative. While in some circumstances your Dentist is treated as your authorized representative, generally Delta Dental only recognizes the person whom you have authorized on the last dated form filed with Delta Dental. Once you have appointed an authorized representative, Delta Dental will communicate directly with your representative and will not inform you of the status of your claim. You will have to get that information from your representative. If you have not designated a representative, Delta Dental will communicate directly with you.

Questions and Assistance

Questions regarding your coverage should be directed to your Human Resources department or call Delta Dental's Customer Service department, toll-free, at (800) 662-8856. You may also write to Delta Dental's Customer Service department at P.O. Box 9089, Farmington Hills, Michigan, 48333-9089. When writing to Delta Dental, please include your name, the group's name and number, the Enrollee's Member ID number, and your daytime telephone number.

VI. How Payment is Made

Delta Dental shall make payments for covered services in accordance with the plan selected by the Contractor. Your Plan will be identified on your Summary of Dental Plan Benefits.

Delta Dental PPO plus Premier

If your Dentist is a Participating Dentist, Delta Dental will base payment on the Maximum Approved Fee for Covered Services.

Delta Dental will send payment directly to Participating Dentists and you will be responsible for any applicable Copayments or Deductibles. Unless prohibited by state law, you will be responsible for the Maximum Approved Fee for most commonly performed non-covered services. For other non-covered services, you will be responsible for the Dentist's Submitted Amount.

If your Dentist is a Nonparticipating Dentist, Delta Dental will base payment on the Nonparticipating Dentist Fee for Covered Services.

If your Dentist is an Out-of-Country Dentist, Delta Dental will base payment on the Out-of-Country Dentist Fee for Covered Services.

For Covered Services rendered by a Nonparticipating Dentist or Out-of-Country Dentist, Delta Dental will usually send payment to you, and you will be responsible for making full payment to the Dentist. You will be responsible for any difference between Delta Dental's payment and the Dentist's Submitted Amount.

Delta Dental PPO (Standard)

Whether your Dentist is a PPO Dentist or not, Delta Dental will base its payment on the lesser of the Submitted Amount or the PPO Dentist Schedule.

Delta Dental will send payment directly to Participating Dentists and you will be responsible for any applicable Copayments or Deductibles. If your Dentist is not a PPO Dentist, but is a Premier Dentist, you will also be responsible for any difference between the PPO Dentist Schedule and the Premier Dentist Schedule for Covered Services, in addition to Copayments or Deductibles. Unless prohibited by state law, you will be responsible for the Maximum Approved Fee for most commonly performed non-covered services. For other non-covered services, you will be responsible for the Dentist's Submitted Amount.

For Covered Services rendered by a Nonparticipating Dentist or Out-of-Country Dentist, Delta Dental will usually send payment to you, and you will be responsible for making full payment to the Dentist. You will be responsible for any difference between Delta Dental's payment and the Dentist's Submitted Amount.

Orthodontics

If This Plan includes orthodontics it will be identified on and paid as reflected in your Summary of Dental Plan Benefits Covered Services.

Covered Services Requiring Multiple Visits

In the event a Covered Service requires more than one (1) visit with your Dentist, payment for the Covered Service will be rendered upon Completion Date.

VII. Benefit Categories

The Benefits covered by This Plan are set forth in your Summary of Dental Plan Benefits.

VIII. Exclusions and Limitations

Exclusions

Delta Dental will make no payment for the following services or supplies, unless otherwise specified in the Summary of Dental Plan Benefits. All charges for these services will be your responsibility:

1. Services or supplies for the treatment of an occupational injury or sickness which are paid under the North Carolina Worker's Compensation Act only to the extent such services or supplies are the liability of the employee, employer or workers' compensation insurance carrier according to a final

adjudication under the North Carolina Workers' Compensation Act or an order of the North Carolina Industrial Commission approving a settlement agreement under the North Carolina Workers' Compensation Act.

2. Services received from any government agency, political subdivision, community agency, foundation, or similar entity.

NOTE: This provision does not apply to any programs provided under Medicaid or Medicare.

3. Services or supplies, as determined by Delta Dental, for correction of congenital or developmental malformations, except for the correction of congenital defects or anomalies (including treatment and care for cleft lip or cleft palate) with respect to newborn Children, adopted Children, foster Children, and Children covered by virtue of court or administrative order.
4. Cosmetic surgery or dentistry for aesthetic reasons, as determined by Delta Dental, except for the correction of congenital defects or anomalies (including treatment and care for cleft lip or cleft palate) with respect to newborn Children, adopted Children, foster Children, and Children covered by virtue of court or administrative order.
5. Services completed or appliances completed before a person became eligible under This Plan. This exclusion does not apply to orthodontic treatment in progress (if a Covered Service).
6. Prescription drugs (except intramuscular injectable antibiotics), premedication, medicaments/ solutions, and relative analgesia.
7. General anesthesia and intravenous sedation for (a) surgical procedures, unless medically necessary, or (b) restorative dentistry.
8. Charges for hospitalization, laboratory tests, and histopathological examinations.
9. Charges for failure to keep a scheduled visit with the Dentist.
10. Services or supplies, as determined by Delta Dental, for which no valid dental need can be demonstrated.
11. Services or supplies, as determined by Delta Dental, that are investigational in nature, including services or supplies required to treat complications from investigational procedures.
12. Services or supplies, as determined by Delta Dental, which are specialized techniques.
13. Treatment by other than a Dentist, except for services performed by a licensed dental hygienist under the supervision of a licensed dentist.
14. Treatment rendered by any other dental professional, may be covered only as determined by the Contractor and/or Delta Dental. Services or supplies for which the patient is not legally obligated to pay, or for which no charge would be made in the absence of Delta Dental coverage.
15. Services or supplies covered under a hospital, surgical/medical, or prescription drug program.

16. Services or supplies that are not within the categories of Benefits selected by the Contractor and that are not covered under the terms of this Certificate.
17. Fluoride rinses, self-applied fluorides, or desensitizing medicaments.
18. Interim caries arresting medicament.
19. Preventive control programs (including oral hygiene instruction, caries susceptibility tests, dietary control, tobacco counseling, home care medicaments, etc.).
20. Sealants.
21. Space maintainers for maintaining space due to premature loss of anterior primary teeth.
22. Lost, missing, or stolen appliances of any type and replacement or repair of orthodontic appliances or space maintainers.
23. Cosmetic dentistry, as determined by Delta Dental, except for the correction of congenital defects or anomalies (including treatment and care for cleft lip or cleft palate) with respect to newborn Children, adopted Children, foster Children, and Children covered by virtue of court or administrative order.
24. Veneers.
25. Prefabricated crowns used as final restorations on permanent teeth.
26. Appliances, surgical procedures, and restorations for increasing vertical dimension; for altering, restoring, or maintaining occlusion; for replacing tooth structure loss resulting from attrition, abrasion, abfraction, or erosion; or for periodontal splinting. If Orthodontic Services are Covered Services, this exclusion will not apply to Orthodontic Services as limited by the terms and conditions of the contract between Delta Dental and the Contractor.
27. Implant/abutment supported interim fixed denture for edentulous arch.
28. Soft occlusal guard appliances.
29. Paste-type root canal fillings on permanent teeth.
30. Replacement, repair, relines, or adjustments of occlusal guards.
31. Chemical curettage.
32. Services associated with overdentures.
33. Metal bases on removable prostheses.
34. The replacement of teeth beyond the normal complement of teeth.
35. Personalization or characterization of any service or appliance.
36. Temporary crowns used for temporization during crown or bridge fabrication.
37. Posterior bridges in conjunction with partial dentures in the same arch.
38. Precision attachments and stress breakers.

39. Biologic materials to aid in soft and osseous tissue regeneration when submitted on the same day as soft tissue grafting, guided tissue regeneration, and periodontal or implant bone grafting.
40. Bone replacement grafts and specialized implant surgical techniques, including radiographic/surgical implant index.
41. Appliances, restorations, or services for the diagnosis or treatment of disturbances of the temporomandibular joint.
42. Diagnostic photographs and cephalometric films, unless done for orthodontics and orthodontics are a Covered Service.
43. Myofunctional therapy.
44. Mounted case analyses.
45. Any and all taxes applicable to the services.
46. Processing policies may otherwise exclude payment by Delta Dental for services or supplies.

Delta Dental will make no payment for the following services or supplies. Participating Dentists may not charge Members for these services or supplies. All charges from Nonparticipating Dentists for the following services or supplies are your responsibility:

1. Services or supplies, as determined by Delta Dental, which are not provided in accordance with generally accepted standards of dental practice.
2. The completion of forms or submission of claims.
3. Consultations, patient screening, or patient assessment when performed in conjunction with examinations or evaluations.
4. Local anesthesia.
5. Acid etching, cement bases, cavity liners, and bases or temporary fillings.
6. Infection control.
7. Temporary, interim, or provisional crowns.
8. Gingivectomy as an aid to the placement of a restoration.
9. The correction of occlusion, when performed with prosthetics and restorations involving occlusal surfaces.
10. Diagnostic casts, when performed in conjunction with restorative or prosthodontic procedures.
11. Palliative treatment, when any other service is provided on the same date except X-rays and tests necessary to diagnose the emergency condition.
12. Post-operative X-rays, when done following any completed service or procedure.
13. Periodontal charting.
14. Pins and preformed posts, when done with core buildups for crowns, onlays, or inlays.
15. Any substructure when done for inlays, onlays, and veneers.

16. A pulp cap, when done with a sedative filling or any other restoration. A sedative or temporary filling, when done with pulpal debridement for the relief of acute pain prior to conventional root canal therapy or another endodontic procedure. The opening and drainage of a tooth or palliative treatment, when done by the same Dentist or dental office on the same day as completed root canal treatment.
17. A pulpotomy on a permanent tooth, except on a tooth with an open apex.
18. A therapeutic apical closure on a permanent tooth, except on a tooth where the root is not fully formed.
19. Retreatment of a root canal by the same Dentist or dental office within two years of the original root canal treatment.
20. A prophylaxis or full mouth debridement, when done on the same day as periodontal maintenance or scaling in the presence of gingival inflammation.
21. Scaling in the presence of gingival inflammation when done on the same day as periodontal maintenance.
22. Prophylaxis, scaling in the presence of gingival inflammation, or periodontal maintenance when done within 30 days of three or four quadrants of scaling and root planing or other periodontal treatment.
23. Full mouth debridement when done within 30 days of scaling and root planing.
24. Scaling and debridement in the presence of inflammation or mucositis of a single implant, including cleaning of the implant surfaces without flap entry and closure, when performed within 12 months of implant restorations, provisional implant crowns and implant or abutment supported interim dentures.
25. Full mouth debridement, when done on the same day as comprehensive evaluation.
26. An occlusal adjustment, when performed on the same day as the delivery of an occlusal guard.
27. Reline, rebase, or any adjustment or repair within six months of the delivery of a partial denture.
28. Tissue conditioning, when performed on the same day as the delivery of a denture or the reline or rebase of a denture.
29. Periapical and/or bitewing X-rays, when done within a clinically unreasonable period of time of performing panoramic and/or full mouth X-rays, as determined solely by Delta Dental.
30. Teledentistry fees.
31. Processing policies may otherwise exclude payment by Delta Dental for services or supplies.

Limitations

The Benefits for the following services or supplies are limited as follows, unless otherwise specified in the Summary of Dental Plan Benefits. All charges for services or supplies that exceed these

reductions will be your responsibility. All time limitations are measured from the applicable prior dates of services in our records with any Delta Dental Member Plan or, at the request of the Contractor, any dental plan:

1. Bitewing X-rays are payable once per calendar year, unless a full mouth X-ray, which include bitewings, has been paid in that same year.
 2. Panoramic or full mouth X-rays (which may include bitewing X-rays) are payable once in any five-year period.
 3. Any combination of teeth cleanings (prophylaxes, full mouth debridement, scaling in the presence of inflammation, and periodontal maintenance procedures) are payable twice per calendar year. Full mouth debridement is payable once in a lifetime.
 4. Oral examinations and evaluations are only payable twice per calendar year, regardless of the Dentist's specialty.
 5. Patient screening is payable once per calendar year.
 6. Preventive fluoride treatments are payable twice per calendar year for people under age 19.
 7. Space maintainers for posterior teeth are payable once in a lifetime for people under age 14. A distal shoe space maintainer is only payable for first permanent molars.
 8. Cast restorations (including jackets, crowns and onlays) and associated procedures (such as core buildups and post substructures) are payable once in any five-year period per tooth.
 9. Crowns or onlays are payable only for extensive loss of tooth structure due to caries (decay) or fracture (lost or mobile tooth structure).
 10. Individual crowns over implants are payable at the prosthodontic benefit level once in a five year period.
 11. Substructures, porcelain, porcelain substrate, and cast restorations are not payable for people under age 12.
 12. Hard full or partial arch occlusal guards are payable once in a lifetime.
 13. An interim partial denture is payable only for the replacement of permanent anterior teeth for people under age 17 or during the healing period for people age 17 and over.
 14. Biologic materials to aid in soft and osseous tissue regeneration are payable once per tooth in a 36 month period.
 15. Prosthodontic Services limitations:
 - a. One complete upper and one complete lower denture, and any implant used to support a denture, are payable once in any five-year period.
 - b. A removable partial denture, endosteal implant (other than to support a denture), or fixed bridge is payable once in any five-year period unless the loss of additional teeth requires the construction of a new appliance.
 - c. Fixed bridges and removable partial dentures are not payable for people under age 16.
 - d. A relines or the complete replacement of denture base material is payable once in any two-year period per appliance.
 - e. Implant removal is payable once per lifetime per tooth or area.
 - f. Implant maintenance is payable once per any twelve (12) month period.
 - g. Removal of a broken implant retaining screw is payable once in a 5 year period.
16. Orthodontic Services limitations, if covered under your Plan pursuant to your Summary of Dental Plan Benefits:
- a. Orthodontic Services are payable for Members pursuant to the limits specified in your Summary of Dental Plan Benefits.
 - b. If the treatment plan terminates before completion for any reason, Delta Dental's obligation for payment ends on the last day of the month in which the patient was last treated.
 - c. Upon written notification to Delta Dental and to the patient, a Dentist may terminate treatment for lack of patient interest and cooperation. In those cases, Delta Dental's obligation for payment ends on the last day of the month in which the patient was last treated.
17. Delta Dental's obligation for payment of Benefits ends on the last day of coverage. However, Delta Dental will make payment for Covered Services provided on or before the last day of coverage, as long as Delta Dental receives a claim for those services within one year of the date of service. When services in progress are interrupted and completed later by another Dentist, Delta Dental will issue payment for any incomplete services; however, Delta Dental will calculate the Maximum Approved Fee that the dentist may charge you for such incomplete services, and those charges will be your responsibility. In the event the interrupted services are completed later by a Dentist, Delta Dental will review the Claim and determine the amount of payment, if any, to the Dentist in accordance with Delta Dental's policies at the time services are completed.
18. Care terminated due to the death of a Member will be paid to the limit of Delta Dental's liability for the services completed or in progress.
19. Optional treatment: If you select a more expensive service than is customarily provided, Delta Dental may make an allowance for certain services based on the fee for the customarily provided service. You are responsible for the difference in cost. In all cases, Delta Dental will make the final determination regarding optional treatment and any available allowance.
- Listed below are services for which Delta Dental will provide an allowance for optional treatment. Remember, you are responsible for the difference in cost for any optional treatment.

- a. Resin, porcelain fused to metal, and porcelain crowns, bridge retainers, or pontics on posterior teeth – Delta Dental will pay only the amount that it would pay for a full metal crown.
- b. Overdentures – Delta Dental will pay only the amount that it would pay for a conventional denture.
- c. Resin, or porcelain/ceramic onlays on posterior teeth – Delta Dental will pay only the amount that it would pay for a metallic onlay.
- d. Inlays, regardless of the material used – Delta Dental will pay only the amount that it would pay for an amalgam or composite resin restoration.
- e. All-porcelain/ceramic bridges – Delta Dental will pay only the amount that it would pay for a conventional fixed bridge.
- f. Implant/abutment supported complete or partial dentures – Delta Dental will pay only the amount that it would pay for a conventional denture.
- g. Gold foil restorations – Delta Dental will pay only the amount that it would pay for an amalgam or composite restoration.
- h. Posterior stainless steel crowns with esthetic facings, veneers, or coatings – Delta Dental will pay only the amount that it would pay for a conventional stainless steel crown.

20. Maximum Payment:

All Benefits available under This Plan are subject to the Maximum Payment limitations set forth in your Summary of Dental Plan Benefits.

21. If a Deductible amount is stated in the Summary of Dental Plan Benefits, Delta Dental will not pay for any services or supplies, in whole or in part, to which the Deductible applies until the Deductible amount is met.
22. Caries risk assessments are payable once in any 36-month period for Members age 3-18.
23. Processing Policies may otherwise limit payment by Delta Dental for services or supplies.

Delta Dental will make no payment for services or supplies that exceed the following reductions. All charges are your responsibility. However, Participating Dentists may not charge Members for these services or supplies when performed by the same Dentist or dental office. All time limitations are measured from the applicable prior dates of services in our records with any Delta Dental Member Plan or, at the request of the Contractor, any dental plan:

1. Amalgam and composite resin restorations are payable once in any two-year period, regardless of the number or combination of restorations placed on a surface.
2. Core buildups and other substructures are payable only when needed to retain a crown on a tooth with excessive breakdown due to caries (decay) and/or fractures.
3. Recementation of a crown, onlay, inlay, space maintainer, or bridge within six months of the seating date.

4. Retention pins are payable once in any two-year period. Only one substructure per tooth is a Covered Service.
5. Root planing is payable once in any two-year period.
6. Periodontal surgery is payable once in any three-year period.
7. A complete occlusal adjustment is payable once in any five-year period. The fee for a complete occlusal adjustment includes all adjustments that are necessary for a five-year period. A limited occlusal adjustment is not payable more than three times in any five-year period. The fee for a limited occlusal adjustment includes all adjustments that are necessary for a six-month period.
8. Tissue conditioning is payable twice per arch in any three-year period.
9. The allowance for a denture repair (including reline or rebase) will not exceed half the fee for a new denture.
10. Services or supplies, as determined by Delta Dental, which are not provided in accordance with generally accepted standards of dental practice.
11. Distal shoe space maintainers are only payable for Members age 8 and under.
12. One caries risk assessment is allowed on the same date of service.
13. One caries risk assessment is allowed within a twelve (12) month period when done by the same dentist/dental office.
14. Processing Policies may otherwise limit payment by Delta Dental for services or supplies.

IX. Coordination of Benefits

All Benefits under this Certificate are subject to a coordination of benefits provision, if applicable, that is designed to provide maximum coverage, but not result in payment of more than 100 percent of the total fee for a given treatment.

Coordination of Benefits (“COB”) applies to This Plan when a Member has dental benefits under more than one plan. The objective of COB is to make sure the combined payments of the plans are no more than your actual dental bills. COB rules establish whether This Plan’s Benefits are determined before or after another plan’s benefits.

A Plan is any of the following that provides benefits or services for, or because of, medical or dental care or treatment:

- ◆ Group insurance or group-type coverage, whether insured or uninsured. This includes pre-payment group practice, or individual practice coverage. It does not include school accident-type coverage, blanket, franchise, individual, automobile, or homeowner coverage.
- ◆ Coverage under a governmental plan or coverage required or provided by law. This does not include a state plan under Medicaid (Title XIX, Grants to States for Medical Assistance Programs, of the United States Social Security Act, as amended

from time to time). It also does not include any plan when, by law, its benefits are excess to those of any private insurance program or other non-governmental program.

You must submit your bills to the primary plan first. The primary plan must pay its full benefits as if you had no other coverage. If the primary plan denies your claim or does not pay the full bill, you may then submit the remainder of the bill to the secondary plan.

Allowable Expenses are necessary, reasonable, and customary items of expense for health care when the item of expense is covered at least in part by one or more plans covering the person for whom the Claim is made. Total benefits paid must be equal to 100 percent of necessary medical expenses covered by both plans. However, This Plan is not required to pay for an item, service, or benefit which is not a part of This Plan's Contract.

Which Plan is Primary?

To decide which plan is primary, Delta Dental will consider both the COB provisions of the other plan and the relationship of the Member to This Plan's Subscriber, as well as other factors. The primary plan is determined by the first of the following rules that applies:

1. Non-coordinating Plan

If you have another plan that does not coordinate benefits, it will always be primary.

2. Subscriber v. Dependent Coverage

The plan that covers the Member other than as a Subscriber will be primary over a plan that covers the Member as a dependent. However, please note that if the Member is a Medicare beneficiary, federal law may reverse this order.

3. Children (Parents Divorced or Separated)

If a court decree makes one parent responsible for health care expenses, that parent's plan is primary.

If a court decree states that the parents have joint custody without stating that one of the parents is responsible for the Child's health care expenses, Delta Dental follows the birthday rule (see rule 4 below).

If neither of these rules applies, the order will be determined as follows:

- a. First, the plan of the parent with custody of the Child will be primary;
- b. Then, the plan of the spouse of the parent with custody of the Child will be primary;
- c. Next, the plan of the parent without custody of the Child will be primary;
- d. Last, the plan of the spouse of the parent without custody of the Child will be primary.

4. Children and the Birthday Rule

The plan of the parent whose birthday is earliest in the calendar year is always primary for Children. For example, if your birthday is in January and your spouse's birthday is in March, your plan will be primary for all of your Children. If both parents have the same birthday, the plan that has covered the parent for the longer period will be primary.

5. Laid Off or Retired Employees

The plan that covers the Member as a laid off or retired employee or as a dependent of a laid off or retired employee will be primary.

6. COBRA Coverage

The plan that is provided under a right of continuation pursuant to federal law or a similar state law (that is, COBRA) will be primary.

7. Other Plans

If none of the rules above determines the order of benefits, the plan that has covered the Member for the longer period will be primary.

If the other plan does not have rule 5 and/or rule 6 (above) and decides the order of benefits differently from This Plan, This Plan may ignore either of those rules.

In the event that these rules do not determine how Delta Dental should coordinate benefits with another plan, Delta Dental will follow its internal policies and procedures for determining which plan is primary, unless prohibited by applicable law.

How Delta Dental Pays as Primary Plan

When Delta Dental is the primary plan, it will pay for Covered Services as if you had no other coverage.

How Delta Dental Pays as Secondary Plan

Unless the Contractor has selected carve out coordination of benefits or non-duplication of benefits as stated in your Summary of Dental Plan Benefits, when Delta Dental is the secondary plan, it will pay for Covered Services based on the amount left after the primary plan has paid. It will not pay more than that amount, and it will not pay more than it would have paid as the primary plan.

When Benefits are reduced as described above, each Benefit is reduced in proportion. Benefits are then charged against any applicable benefit limit of This Plan.

Right to Receive and Release Needed Information

Delta Dental needs certain facts to apply these COB rules, and it has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person regarding the Claim being coordinated. Delta Dental need not tell or get the consent of any person to do this. Each person claiming Benefits under This Plan must give Delta Dental any facts it needs to pay the claim.

Facility of Payment

A payment made under another plan may include an amount that should have been paid under This Plan. If it does, Delta Dental may pay that amount to the organization that made the payment.

That amount will then be treated as though it were a Benefit paid under This Plan, and Delta Dental will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

Right of Recovery

If the amount of the payments made by Delta Dental is more than it should have paid under this COB provision, Delta Dental may recover the excess from the people it has paid or for whom it has paid;

Payment includes the reasonable cash value of any benefits provided in the form of services. This right of recovery is limited to two years after the date of the original Claim payment, unless Delta Dental has reasonable belief that fraud or intentional misconduct occurred.

X. Reconsideration and Claims Appeal Procedure

Reconsideration

If you receive notice of an Adverse Benefit Determination and you think that Delta Dental incorrectly denied all or part of your claim, you or your Dentist should contact Delta Dental's Customer Service department and ask them to check the claim to make sure it was processed correctly. You may do this by calling the toll-free number, (800) 662-8856, and speaking to a telephone advisor. You may also mail your inquiry to the Customer Service Department at P.O. Box 9089, Farmington Hills, Michigan, 48333-9089.

When writing, please enclose a copy of your explanation of benefits and describe the problem. Be sure to include your name, telephone number, the date, and any information you would like considered about your claim.

A request for reconsideration is not required and should not be considered a formal request for review of a denied claim. Delta Dental provides this opportunity for you to describe problems, or submit an explanation or additional information that might indicate your claim was improperly denied, and allow Delta Dental to correct any errors quickly and immediately.

Whether or not you have asked Delta Dental informally to reconsider its initial determination, you can request a formal review using the Formal Disputed Claims Procedure described below.

Formal Disputed Claims Procedure

If you receive notice of an Adverse Benefit Determination, you, or your authorized representative, should seek a review as soon as possible, but **you must file your request for review within 180 days** of the date that you received that Adverse Benefit Determination.

To request a formal review of your claim, send your request in writing to:

**Dental Director
Delta Dental
P.O. Box 30416
Lansing, Michigan 48909-7916**

Please include your name and address, the Subscriber's Member ID, the reason why you believe your claim was wrongly denied, and any other information you believe supports your claim. You also have the right to review the contract between Delta Dental and the Contractor and any documents related to it. If you would like a record of your request and proof that Delta Dental received it, mail your request certified mail, return receipt requested.

The Dental Director or any person reviewing your claim will not be the same as, nor subordinate to, the person(s) who initially decided your claim. The reviewer will grant no

deference to the prior decision about your claim. The reviewer will assess the information, including any additional information that you have provided, as if he or she were deciding the claim for the first time. The reviewer's decision will take into account all comments, documents, records and other information relating to your claim even if the information was not available when your claim was initially decided.

If the decision is based, in whole or in part, on a dental or medical judgment (including determinations with respect to whether a particular treatment, drug, or other item is experimental, investigational, or not medically necessary or appropriate), the reviewer will consult a dental health care professional with appropriate training and experience, if necessary. The dental health care professional will not be the same individual or that person's subordinate consulted during the initial determination.

The reviewer will make a determination within 60 days of receipt of your request. If your claim is denied on review (in whole or in part), you will be notified in writing. The notice of an Adverse Benefit Determination during the Formal Disputed Claims Procedure will meet the requirements described below.

Manner and Content of Notice

Your notice of an Adverse Benefit Determination will inform you of the specific reasons(s) for the denial, the pertinent plan provisions(s) on which the denial is based, the applicable review procedures for dental claims, including time limits and that, upon request, you are entitled to access all documents, records and other information relevant to your claim free of charge. This notice will also contain a description of any additional materials necessary to complete your claim, an explanation of why such materials are necessary, and a statement that you have a right to bring a civil action in court if you receive an Adverse Benefit Determination after your claim has been completely reviewed according to this Formal Disputed Claims Procedure. The notice will also reference any internal rule, guideline, protocol, or similar document or criteria relied on in making the Adverse Benefit Determination, and will include a statement that a copy of such rule, guideline or protocol may be obtained upon request at no charge. If the Adverse Benefit Determination is based on a matter of medical judgment or medical necessity, the notice will also contain an explanation of the scientific or clinical judgment on which the determination was based, or a statement that a copy of the basis for the scientific or clinical judgment can be obtained upon request at no charge.

The Adverse Benefit Determination notice will inform you of your right to a managerial conference to complete the formal grievance procedure.

XI. Termination of Coverage

Your Delta Dental coverage may automatically terminate:

- ◆ When the Contractor advises Delta Dental to terminate your coverage.
- ◆ On the first day of the month for which the Contractor has failed to pay Delta Dental.

- ◆ For fraud or misrepresentation in the submission of any claim.
- ◆ For your Dependent, when they no longer qualify as a Dependent.
- ◆ For any other reason stated in the contract between Delta Dental and the Contractor.

Delta Dental will not continue eligibility for any person covered under This Plan beyond the termination date requested by the Contractor. A person whose eligibility is terminated may not continue group coverage under this Certificate, except as required by the continuation coverage provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 or comparable, non-preempted state law (“COBRA”).

XII. Continuation of Coverage

If the Contractor is required to comply with COBRA and the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and your dental coverage would otherwise end, you and your Dependents may have the right to continue that coverage at your expense.

When is Plan Continuation Coverage Available?

Continuation coverage is available if your coverage or a covered Dependent’s coverage would end because:

1. Your employment, if applicable, ends for any reason other than your gross misconduct.
2. You do not qualify as an Enrollee as set forth in your Summary of Dental Plan Benefits.
3. You are divorced or legally separated.
4. You die.
5. Your Dependent is no longer a Dependent.
6. You become enrolled in Medicare (if applicable).
7. You are called to active duty in the armed forces of the United States.

If you believe you are entitled to continuation coverage, you should contact the Contractor to receive the appropriate documentation required under the Employee Retirement Income Security Act of 1974 (“ERISA”).

XIII. General Conditions

Assignment

Services and Benefits are for the personal benefit of Members and cannot be transferred or assigned, other than to pay Participating Dentists directly.

Obtaining and Releasing Information

While you and/or your Dependent(s) are enrolled in This Plan, you and/or your Dependent(s) agree to provide Delta Dental with any information it needs to process Claims and administer Benefits for you and/or your Dependent(s). This includes allowing Delta Dental access to your dental records.

Dentist-Patient Relationship

Members are free to choose any Dentist. Each Dentist is solely responsible for the treatment and/or dental advice provided to the Member, and Delta Dental does not have any liability resulting therefrom.

Loss of Eligibility During Treatment

If a Member loses eligibility while receiving dental treatment, only Covered Services received while that person was covered under This Plan will be payable.

Certain services begun before the loss of eligibility may be covered if they are completed within 60 days from the date of termination. In those cases, Delta Dental evaluates those services in progress to determine what portion may be paid by Delta Dental. The difference between Delta Dental’s payment and the total fee for those services is your responsibility. This provision does not apply to orthodontics if covered under this plan.

Late Claims Submissions

Delta Dental will make no payment for services or supplies if a claim for such has not been received by Delta Dental within one year following the date the services or supplies were completed. In the event that a Participating Provider submits a Claim more than one year from the date of service, Delta Dental will deny that portion of the Claim that Delta Dental would have paid if the Claim had been timely submitted. However, you will remain responsible for any applicable Deductible and/or Co-Insurance. In the event that a Nonparticipating Provider submits a claim more than one year from the date of service, Delta Dental will Deny the Claim and you may be responsible for the full amount.

Change of Certificate or Contract

No changes to this Certificate, your Summary of Dental Plan Benefits, or the underlying contract are valid unless Delta Dental approves them in writing.

Actions

You cannot bring an action on a legal claim arising out of or related to this Certificate unless you have provided at least 60 days’ written notice to Delta Dental, unless prohibited by applicable state law. In addition, you cannot bring an action more than three years after the legal claim first arose or after expiration of the applicable statute of limitations, whichever is shorter. Any person seeking to do so will be deemed to have waived his or her right to bring suit on such legal claim. Except as set forth above, this provision does not preclude you from seeking a judicial decision or pursuing other available legal remedies.

Governing Law

This Certificate and the underlying group contract will be governed by and interpreted under the laws of the state of North Carolina.

Legally Mandated Benefits

If any applicable law requires broader coverage or more favorable treatment for you or your Dependents than is provided by this Certificate, that law shall control over the language of this Certificate.

Change of Status

You must notify Delta Dental, through the Contractor, of any event that changes the status of a Dependent. Events that can affect the status of a Dependent include, but are not limited to, marriage, birth, death, divorce, and entrance into military service.

Right of Recovery Due to Fraud

If Delta Dental pays for services that were sought or received under fraudulent, false, or misleading pretenses or circumstances, pays a claim that contains false or misrepresented information, or pays a claim that is determined to be fraudulent due to your acts or acts of your Dependents, it may recover that payment from you or your Dependents. You and your Dependents authorize Delta Dental to recover any payment determined to be based on false, fraudulent, misleading, or misrepresented information by deducting that amount from any payments properly due to you or your Dependents. Delta Dental will provide an explanation of the payment recovery at the time the deduction is made.

Any person intending to deceive an insurer, who knowingly submits an application or files a claim containing a false or misleading statement, is guilty of insurance fraud.

Insurance fraud significantly increases the cost of health care. If you are aware of any false information submitted to Delta Dental, please call our toll-free hotline. We only accept anti-fraud calls at this number.

ANTI-FRAUD TOLL-FREE HOTLINE:

(800) 524-0147

BUSINESS ASSOCIATE ADDENDUM

THIS BUSINESS ASSOCIATE ADDENDUM (“the ADDENDUM”) is an addendum to the most recently executed Agreement between Delta Dental Plan of North Carolina (“Business Associate”) and Contractor (“Covered Entity”). Business Associate and Covered Entity are sometimes collectively referred to herein as the “Parties.”

I. INTRODUCTION

- A. **WHEREAS**, pursuant to the terms and conditions set forth in the Agreement, Business Associate performs, for or on behalf of Covered Entity, certain services described in the Agreement (the “Services”); and
- B. **WHEREAS**, in performing the Services, Business Associate will receive, create, or access certain Protected Health Information of Participants in Covered Entity’s dental plan, and, accordingly, is a business associate as that term is defined in 45 CFR 160.103; and
- C. **WHEREAS**, Covered Entity is a covered entity as that term is defined in 45 CFR 160.103; and
- D. **WHEREAS**, the Parties desire to enter into this Addendum to comply with the provisions in the Privacy Rule requiring a business associate to provide adequate assurances to a covered entity with respect to the confidentiality of PHI.
- E. **NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

II. DEFINITIONS

- A. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 CFR 164.501 and is limited to a group of records maintained by or for Covered Entity that includes: (a) enrollment, payment, and claims adjudication records of an Individual maintained by or for Covered Entity; or (b) other Protected Health Information used, in whole or in part, by or for Covered Entity to make coverage decisions about an Individual.
- B. “Electronic Protected Health Information” or “EPHI” shall have the same meaning as the term “electronic protected health information,” at 45 CFR 160.103, and is limited to the electronic protected health information that is created, received, maintained, or transmitted to or on behalf of Covered Entity.
- C. “ERISA” means the Employee Retirement Income Security Act of 1974, as amended.
- D. “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended.
- E. “HITECH Act” means the Health Information Technology for Economic and Clinical Health Act, found in the American Recovery and Reinvestment Act of 2009 at Division A, Title XIII and Division B, Title IV.
- F. “Individual” shall have the same meaning as the term “individual” in 45 CFR 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- G. “Minimum Necessary” shall have the meaning set forth in the Health Information Technology for Economic and Clinical Health Act, § 13405(b).
- H. “Participant” means any Individual who is eligible for benefits under Covered Entity’s dental plan.
- I. “Privacy Rule” means the “Standards for Privacy of Individually Identifiable Health Information,” at 45 CFR parts 160 and 164, subparts A and E, as promulgated pursuant to HIPAA.
- J. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 CFR 160.103, and is limited to the information created, received, or accessed by Business Associate from or on behalf of Covered Entity.
- K. “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR 164.103.
- L. “Secretary” shall mean the Secretary of the Department of Health and Human Services, or his designee.
- M. “Security Rule” means the “Standards for the Security of Electronic Protected Health Information,” at 45 CFR parts 160, 162 and 164, as promulgated pursuant to HIPAA.

III. AGREEMENTS

A. Obligations of Business Associate.

1. **Application of Security Rule and Privacy Rule to Business Associate.** The administrative, physical and technical safeguards set forth in the HIPAA Security Rule at 45 CFR 164.308, 164.310, 164.312, and 164.316, shall apply to Business Associate in the same manner that such sections apply to a covered entity. The additional requirements of Subtitle D of the HITECH Act (Sections 13400 through 13411) that relate to privacy or security and that are made applicable with respect to covered entities shall also be applicable to Business Associate and are hereby incorporated into this Agreement.
2. **Uses and Disclosures.** Business Associate shall not use or further disclose PHI other than (a) as permitted or required by this Agreement and Addendum, (b) as permitted or required by Covered Entity, (c) as permitted or required by the Privacy Rule, (d) as Required by Law, (e) in a manner that would be permissible if used or disclosed by Covered Entity, or (f) in a manner that would not violate the Privacy Rule or other applicable federal or state law or regulation. Business Associate may use and disclose PHI that Business Associate obtains or creates only if such use or disclosure, respectively, is in compliance with each applicable requirement of 45 CFR 164.504(e).
3. **Minimum Necessary Standard.** Business Associate shall use and disclose PHI in a manner minimally necessary to accomplish the intended purpose of the use or disclosure.
4. **Security.** Business Associate agrees to: (a) implement safeguards in accordance with the Security Rule that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity; (b) ensure that any agents, including subcontractors, to whom Business Associate provides PHI agree to implement reasonable and appropriate safeguards in accordance with the Security Rule to protect the PHI; and (c) report to Covered Entity any violation of the Security Rule of which it becomes aware.
5. **Reporting and Mitigation of Unauthorized Access, Use or Disclosure of PHI.** Business Associate shall report to Covered Entity any use or disclosure of PHI not provided for under Section III.A.2 of this Addendum of which Business Associate becomes aware. Additionally, Business Associate agrees that, to the extent practicable, it shall mitigate any harmful effect of a use or disclosure of PHI of which it becomes aware that is in violation of the requirements of Section III.A.2 of this Addendum.
6. **Written Notification of Unauthorized Access, Use or Disclosure of Unsecured PHI.** Business Associate shall notify Covered Entity in writing of any unauthorized access, use or disclosure of unsecured PHI as soon as reasonably possible but no later than five (5) days following the date of discovery. Such notice shall include:
 - (a) a brief description of what happened, including the date of the breach and the date of the discovery,
 - (b) the name(s) of the Participant(s) whose PHI was used or disclosed,
 - (c) the identity(ies) of the entity(ies)/person(s) to whom the use or disclosure was made,
 - (d) description of the types of unsecured PHI that were disclosed,
 - (e) the steps taken by Business Associate to discontinue and minimize the impact of any inappropriate use or disclosure.
7. **Agents and Subcontractors.** Business Associate shall ensure that any subcontractors or agents to whom it provides PHI that has been created or received by Business Associate from or on behalf of Covered Entity agree to the same restrictions and conditions with respect to such PHI as are applicable to Business Associate as set forth herein.
8. **Requests for Information or Access.** Business Associate shall process any requests it receives from Individuals seeking access to or copies of PHI maintained by Business Associate for or on behalf of Covered Entity. Covered Entity hereby expressly delegates its authority regarding requests for access to Business Associate and agrees to abide by Business Associate's determinations to grant or deny access in accordance with the Privacy Rule.
9. **Requests to Amend.** Business Associate shall make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual. The Business Associate shall make amendments as soon as administratively feasible.

10. **Requests for Accounting.** Business Associate agrees to document disclosures of Protected Health Information, and information related to such disclosures, as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528 and any additional regulations promulgated by the Secretary pursuant to HITECH Act § 13405(c). Business Associate agrees to implement an appropriate record keeping process that will track, at a minimum, the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the Protected Health Information, and if known, the address of such entity or person; (iii) a brief description of the Protected Health Information disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure.
 11. **Books and Records.** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary for purposes of determining Covered Entity's compliance with HIPAA, the Privacy Rule, and other applicable federal and/or state law. Business Associate shall notify Covered Entity of any such requests and shall provide Covered Entity with a copy of the request and any documents or information provided in response to such requests.
 12. **Termination.** If either party knows or discovers a pattern of activity or practice of the other party that constitutes a material breach of the other party's obligations under this Agreement or under applicable federal standards, the discovering party agrees to immediately notify the other party in writing as to the nature and extent of such breach, and shall provide the other party a reasonable amount of time to cure such breach. A reasonable amount of time shall depend on the nature and extent of the breach, shall be clearly stated in the notice, but in no case shall the period for cure be less than five (5) business days. Notwithstanding the foregoing, should the discovering party determine that the breach is incurable, or that the other party has repeatedly engaged in such impermissible use or disclosure despite prior notice, the discovering party must terminate this Agreement, if feasible, upon written notice to the breaching party, without damages or liability thereto; or, if termination is not feasible, report the problem to the Secretary.
 13. **Return of PHI Upon Termination.** At termination of the Agreement, Business Associate shall return or destroy all PHI received from Covered Entity, or created by Business Associate on behalf of Covered Entity, that Business Associate maintains in any form. In the event the return or destruction of such PHI is infeasible, then Business Associate shall continue to extend the protections required hereunder to the PHI for as long as it maintains the PHI. Further, Business Associate shall limit any further use or disclosure of the PHI to those purposes that make its return or destruction infeasible. This provision shall survive the termination of this Agreement.
 14. **Prohibition against Sale or Marketing of PHI.** Except as otherwise provided in Section 13405 of the HITECH Act, Business Associate shall not (a) directly or indirectly receive remuneration in exchange for any PHI of a Participant; or (b) use or disclose PHI for any purpose related directly or indirectly to any marketing or marketing communication.
- B. **Additional Permissible Uses and Disclosures of PHI by Business Associate.** Subject to the foregoing provisions, and in addition to the use and disclosure by Business Associate of PHI authorized elsewhere in this Addendum, Business Associate may use and disclose PHI for the following additional purposes:
1. As necessary for data aggregation purposes relating to the health care operations of Covered Entity;
 2. As necessary for data aggregation purposes of Business Associate, but only if the PHI is de-identified pursuant to 45 CFR 164.514;
 3. For the proper internal management and administration of Business Associate;
 4. To carry out the legal responsibilities of Business Associate; and
 5. To provide summary health information (as defined in 45 CFR 164.504) to Covered Entity for the purposes of administering its dental plan.

For purposes (3) and (4) above, Business Associate may disclose PHI to third parties only if the disclosure is either: (a) Required by Law; or (b) Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that such PHI will be held confidentially and used or further disclosed only for the purposes for which it was disclosed to the person and that any instances in which the confidentiality of such PHI is breached are immediately reported to the Business Associate.

C. Obligations of the Covered Entity.

1. **Communicate Changes in Permitted Uses and Disclosures.** Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individuals to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures of PHI.
2. **Communication of Restrictions on Uses and Disclosures.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to.
3. **Prohibition of Employment-Related Disclosures.** Covered Entity shall not use or disclose the PHI of any Participant for any employment-related purposes, nor shall it direct Business Associate to do so.
4. **Limitation on Requests.** Covered Entity shall not ask Business Associate to use or disclose PHI in a manner that would not otherwise be permitted under the Privacy Rule if done by Covered Entity.

D. **Record Keeping.** Business Associate agrees to implement an appropriate record keeping process to enable it to comply with the HIPAA requirements applicable to it under this Addendum and the Privacy Rule.

E. **Confidential and Proprietary Information.** Business Associate may receive, create, or have access to confidential and/or proprietary information of Covered Entity concerning its business affairs, property, products, operations, computer systems, and strategies. Business Associate agrees to hold such confidential and/or proprietary information in strict confidence, to maintain and safeguard the confidentiality of such information, and to use such information solely to perform the Services as required by this Agreement.

Likewise, Covered Entity may receive, create, or have access to confidential and/or proprietary information of Business Associate concerning its business affairs, property, operations, computer systems, dentists, providers, and strategies. Covered Entity agrees to hold such confidential and/or proprietary information in strict confidence, to maintain and safeguard the confidentiality of such information, and to use such information solely to perform its obligations as required by this Agreement.

F. **Amendment.** Upon enactment of any law or regulation affecting the use or disclosure of PHI, or the publication of any decision of a court of the State or the United States relating to any such law, or the publication of any interpretative policy or opinion of any government agency charged with the enforcement of any such law or regulation, Business Associate, may send written notice to Covered Entity requesting that this Addendum be amended as necessary to comply with such law or regulation. If, within thirty (30) days from the date of such notice, the Parties are unable to reach an agreement amending this Addendum, either Party may terminate the Agreement immediately upon written notice to the other Party.

G. **Binding Effect.** Except as otherwise provided herein, the terms and conditions of the Agreement shall remain in full force and effect. Additionally, the terms and conditions of this Addendum shall remain in full force and effect following termination of the Agreement.

H. **Indemnification by Covered Entity.** Covered Entity shall indemnify, defend, and hold harmless Business Associate, its board of directors, officers, members, agents, employees, subcontractors, and personnel from and against any and all claims, demands, suits, actions, losses, expenses, costs (including reasonable attorney fees), obligations, damages, deficiencies, causes of action, and liabilities (collectively, "Claims") incurred by Business Associate as a result of, or that are proximately caused by, (1) Covered Entity's breach of the terms of this agreement or; (2) Covered Entity's violation of HIPAA and any amendments thereto.

Business Associate shall provide prompt written notice of relevant information concerning the Claims to Covered Entity. Business Associate shall provide such reasonable assistance (at Covered Entity's expense) as may reasonably be requested by Covered Entity in connection with the defense of any Claim. Notwithstanding the foregoing: (1) Business Associate shall not settle any such Claim without the consent of Covered Entity, which consent shall not be unreasonably withheld, and (2) the indemnification obligations of Covered Entity hereunder shall not extend to Claims attributable solely to the gross negligence, intentional misconduct, or willful malfeasance of Business Associate.

I. **Indemnification by Business Associate.** Business Associate hereby agrees to indemnify, defend, and hold harmless Covered Entity, its board of directors, officers, members, agents, employees, subcontractors, and personnel (the "Indemnities") from and against any and all claims, demands, suits, actions, losses, expenses, costs (including reasonable attorney fees), obligations, damages, deficiencies, causes of action, and liabilities (collectively, "Claims") incurred by the Indemnities as a result of, or that are proximately caused by, (1) Business Associate's breach of this Agreement; or (2) Business Associate's violation of HIPAA or any amendments thereto.

Covered Entity shall provide prompt written notice of relevant information concerning the Claims to Business Associate. Covered Entity shall provide such reasonable assistance (at Business Associate's expense), as may reasonably be requested by Business Associate, in connection with the defense of any

Claim. Notwithstanding the foregoing: (1) Business Associate shall not settle any such Claim without the consent of Covered Entity, which consent shall not be unreasonably withheld, and (2) the indemnification obligations of Business Associate hereunder shall not extend to Claims attributable solely to the negligence, gross negligence, intentional misconduct, or willful malfeasance of Covered Entity.

- J. **Injunction.** The Parties acknowledge and agree that in the event of a breach or threatened breach by either Party, the non-breaching Party shall be irreparably and substantially harmed, and that remedies at law will not be an adequate remedy for such breach. Accordingly, in such event, non-breaching Party shall be entitled to seek injunctive relief against such breach or threatened breach. Such rights to injunctive relief shall be in addition to, and not in limitation of, any other legal and equitable relief available to either Party under applicable law.
- K. **Counterparts.** This Agreement may be executed in the original or by facsimile or other electronic means in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.