



This Agreement made this First day of January, 2006 by and between **Compass Community Services** hereinafter referred to as Employer, located at 995 Market Street, 5th Floor, San Francisco, CA 94103-1732 and **Direct Dental Administrators, LLC**, hereinafter referred to as Claims Administrator, located at P.O. Box 2667, San Anselmo, CA, 94979-2667.

WITNESSETH,

WHEREAS, Employer desires to provide and self-fund a dental care plan (hereinafter the "Plan", the terms of which are specially incorporated herein by reference) for its employees utilizing services of Claims Administrator; and,

WHEREAS, Claims Administrator has the requisite experience to administer a dental care benefit plan for Employer.

NOW, THEREFORE, in consideration of the foregoing premises and promises and covenants hereinafter contained, Employer agrees to employ Claims Administrator and Claims Administrator agrees to serve Employer as set forth hereinafter.

- 1) **NAMED FIDUCIARY.** The parties acknowledge that *Compass Community Services* is named fiduciary as defined by ERISA Sections 3(21) and 402(a)(1) and as such retains final authority over the interpretation of all plan provisions,

2) INDEPENDENT CONTRACTOR. The only relationship between Employer and Claims Administrator is the independent contractor relationship established by this Agreement. Nothing contained in this Agreement shall be construed to create the relationship of employer and employee or the relationship of principal and agent, between Claims Administrator and Employer. Employer acknowledges that Claims Administrator does not practice medicine or any other Healthcare related profession, or controls the provision of health services to Plan participants and beneficiaries.

3) TERM. The term of this Agreement is for twelve (12) months, commencing on *January 1, 2006*. At the end of such term, the Plan will automatically renew for additional successive terms of twelve (12) months each. Employer may terminate this Agreement at any time during the term of this Agreement if Sixty (60) days prior written notice is given to the Claims Administrator. Either party may terminate this Agreement (a) upon sixty (60) days prior written notice to the other party due to the other party's failure to perform in full its duties and services hereunder as set forth below or (b) upon dissolution of the Plan.

4) DUTIES AND SERVICES OF CLAIMS ADMINISTRATOR. Claims Administrator shall perform administrative functions as specifically set forth below and as agreed by and between the parties during the term of this Agreement:

- a) Provide enrollment forms, sample Plan documents, Summary Plan Descriptions, claim forms and necessary services to install Plan.
- b) Provide monthly explanation of benefits for each employee with claim activity during each period.
- c) Provide quarterly management reports to Employer showing Plan activity during each specific period. An aggregate total will be provided.
- d) Provide the necessary claim and administrative cost data on an annual basis to be used for the preparation of Form 5500 and related documents in compliance with ERISA.
- e) Provide a year-end statement showing Plan activity during the preceding year showing administrative charges and Plan usage on an employee-by

employee basis. This report shall be issued to Employer within ninety (90) days of the expiration of the applicable Plan Year.

- f) Accept claims and/or Plan related inquiries from employees, dependents or COBRA-eligible persons relative to the Plan contemplated herein.
- g) Verify eligibility of claimants, eligibility of service(s), calculate benefits and transfer appropriate information to Employer to facilitate the orderly payment of claims.
- h) Maintain all records of Plan activity and enrollee data on behalf of Employer; Claims Administrator acknowledges that said records are the property of Employer and shall not be released without Employer's express written consent, except as permitted pursuant to the Plan or required by law.
- i) Claims Administrator shall have no liability for any unfunded claims.

5) DUTIES OF EMPLOYER. The following are Employer's Duties:

- a) Paying applicable fees to the Claims Administrator hereunder in a timely manner;
- b) Producing timely eligibility lists and bi-weekly adds and deletes;
- c) Maintaining the Plan in accordance with all applicable laws;
- d) Providing an official Plan document;
- e) Notifying the Claims Administrator of all Plan changes on a timely basis;
- f) Assuming responsibility for all taxes and fees levied by applicable State, local and Federal agencies in connection with the Plan;
- g) Preparing and filing all government forms necessary for compliance with ERISA (such as Form 5500) and distributing Summary Annual Reports to Plan participants;
- h) Performing any discrimination testing necessary for the proper operation of the Plan;
- i) Acknowledging that Employer is the Plan Administrator for ERISA purposes;
- j) Retaining responsibility for Plan deficits.
- k) Assuming responsibility for COBRA compliance.

- 6) **BOOKS AND RECORDS.** Employer shall provide or cause to be provided to Claims Administrator all information and data reasonably required by Claims Administrator to properly perform Claims Administrator's duties under this Agreement ("Records"). Whenever reasonably possible, such information and data shall be provided in a mutually agreed upon electronic data format. All such information and data shall remain the property of the Employer. Claims Administrator shall treat all Records received by it as Confidential Information in accordance with the provisions of paragraph 13 below.
- Claims Administrator shall make the Records available for inspection or copying (at Employer's expense) at Claims Administrator's office where the Records are kept, during normal business hours upon reasonable advance notice.

Upon the effective date of termination and/or non-renewal of this Agreement, Claims Administrator shall deliver to Employer or its designee as soon as reasonably possible, but in no event more than sixty (60) days thereafter, all Records in the Claims Administrator's possession. The Records shall be delivered in a mutually agreed upon format, and shall include sufficient explanations and documentation to enable Employer to make immediate use of the Record information as reasonably required by Employer. Employer shall reimburse Claims Administrator for costs reasonably incurred by Claims Administrator in providing the Records, including the costs of any programming or other charges that may be required as a result of any requests by the Employer for information in a nonstandard format.

Claims Administrator shall be entitled to retain, at its own expense, copies of any Records that Claims Administrator reasonably determines are relevant to any existing or potential claims against Claims Administrator, but shall not use those Records for any purpose other than resolving such claims.

- 7) **COMPENSATION.** Claims Administrator will be paid compensation as follows:
- (a) Administrative fees including broker service fees will be paid at a rate of \$7.25 per employee per month, \$8.25 per employee plus spouse per month, \$9.25 per employee plus children per month and \$10.25 per family (spouse plus one (1) or

more eligible unmarried children) per month to be remitted as invoiced whether the benefit plan is utilized during the same month or not by any or all employees.

The Administration Fee for the first and last month of service hereunder is due upon Employer's signing of this Agreement. Based on the employee census information provided by Employer, the Administration Fee due at this time is nine-hundred-thirty-one dollars (\$931.00). The monthly Administration Fee will be adjusted upon completion of enrollment and determination of total number of Employer's then-current eligible employees.

(b) Subsequent changes or deletions to the Plan documents requested by Employer will be billed at an hourly rate of \$75.00 plus printing charges. Employer is also responsible for bank account fees for accounts held in the name of the Plan.

(c) Billing will be monthly and due upon receipt. If an account is overdue by more than thirty (30) days, interest will be assessed at the rate of one and one half percent (1-1/2%) per month or the maximum rate allowed pursuant to applicable law. If an account is overdue by more than sixty (60) days, collection costs and reasonable attorney fees will be assessed as incurred. Claims Administrator reserves the right to suspend service until the account is current.

8) ERISA. Employer agrees to be responsible for compliance with all ERISA (Employee Retirement Income Security Act of 1974) requirements, including filing all required forms for Plan approval and other documents and statements as required on a periodic basis unless otherwise agreed by the parties. Claims Administrator will provide "signature ready" documents for ERISA filing to the Employer. Employer further agrees to be responsible for distribution of Employee Booklets, Enrollment Card, and Claim Forms. Claims Administrator shall provide Employer with sufficient Employee Booklets, Enrollment Cards, and Claim Forms to meet the needs of the eligible employees. Claims Administrator shall provide Employer with a Summary Plan Document to be reviewed and accepted by the Employer.

9) TAX STATUS. Claims Administrator will or has prepared the Employee Booklet, Summary Plan Document, Enrollment Cards, and Claim Forms, which are hereby,

or will be, provided to Employer and subject to Employer's approval as to form and content. Claims Administrator makes no warranties or guarantees regarding the tax status of the Plan. Employer agrees to be responsible for obtaining and maintaining whatever tax status it requires.

10) ELIGIBILITY. It is the sole and exclusive responsibility of the Employer, or an agent appointed by Employer, to provide Claims Administrator with current and complete information regarding Employer's employee and/or COBRA eligibility for the Plan, including, but not limited to, with respect to each such employee: the name and address of such employee and his or her eligible dependents, when employment began and/or terminated, employee Social Security Number, employee class of coverage and additional coverage information. Changes in participant status must be reported to Claims Administrator within thirty (30) days of the applicable triggering event. Employer agrees to indemnify, defend, reimburse and hold Claims Administrator harmless as to any claims made as a result of such information provided by Employer to Claims Administrator.

11) ACKNOWLEDGEMENTS. By signing herewith, Employer acknowledges that Claims Administrator makes no warranties as to actual financial performance of the Plan.

12) INDEMNIFICATION. Employer agrees to indemnify, defend, reimburse and hold Claims Administrator harmless from and against any claims, actions or lawsuits, including reasonable attorney's fees, made in relation to the Plan, provided that Employer shall not be obligated to indemnify Claims Administrator for any such liability, claims and judgment or demand arising from or related to Claims Administrator's negligence, omissions, misfeasance or malfeasance. Claims Administrator covenants to cooperate with Employer in the defense of said suits or claims.

13) CONFIDENTIAL INFORMATION. "Confidential Information" means all employee Records and any other business, financial, employee or other information provided by Employer to Claims Administrator for purposes of this Agreement that is reasonably understood by Claims Administrator to be considered confidential or

proprietary by Employer. Claims Administrator shall only disclose the Confidential Information of Employer to Claims Administrator's employees with a strict need to know such information and shall not use such information for any other purpose other than expressly provided in this Agreement or disclose such information to any of its other employees or any third party without Employer's express prior written consent. Claims Administrator shall use the same degree of care to prevent the unauthorized use, dissemination, or publication of the Confidential Information as it uses to protect its own Confidential Information from unauthorized use or disclosure, but in no case with less than a commercially reasonable standard of care.

Confidential information shall not include information that Claims Administrator can demonstrate by competent written proof: (a) is not publicly known or available from other sources who are not under a confidentiality obligation to the source of the information; (b) has been made available by Employer to others without a confidentiality obligation; (c) is already known by or available to Claims Administrator without a confidentiality obligation; or (d) is independently developed by Claims Administrator. Claims Administrator's confidentiality and non-use obligations hereunder shall remain in full force and effect for a period of three (3) years after the termination of this Agreement.

14) PROCEDURE. The Claims Administrator shall process all claims under the Plan in accordance with all applicable federal regulations promulgated under ERISA, the Internal Revenue Code and any other applicable federal law.

15) FRAUD. Employer agrees to hold Claims Administrator harmless as to employee fraud pursuant to applicable claim reimbursement procedures, said procedures having been designed by the Claims Administrator to minimize fraudulent claims by employees and improper issuance of reimbursement checks by Employer. Written notice by Claims Administrator to Employer of any improper/invalid/ineligible/fraudulent employee claim is sufficient for Claims Administrator to discharge its responsibility hereunder. Employer has sole discretion regarding prosecuting fraudulent claims or obtaining reimbursement from overpayment or wrongly paid claims.

- 16) PRIVACY OF INFORMATION.** The Claims Administrator, in the administration of the Plan, may be required to use or disclose PHI for purposes of paying or causing to be paid benefits under the Plan. The attached Business Associate Agreement (Attachment A) specifies Claims Administrators obligation with respect to the handling of Protected Health Information.
- 17) VERIFICATION.** Verification of eligibility of employees and/or dependents is the sole responsibility of Employer.
- 18) NOTICES.** All notices required to be given under the terms of this Agreement shall be deemed given when either served personally, or mailed, postage prepaid, by certified mail, return receipt requested, addressed to the parties at the last known business address.
- 19) PARTIAL INVALIDITY.** If any provision of this Agreement is prohibited by law or court decree of any jurisdiction, said prohibition shall not invalidate or affect the remaining provision of this Agreement.
- 20) ASSIGNMENT.** Neither party may assign its rights or duties under this Agreement without the prior written consent of the other, which consent shall not be unreasonably relayed or withheld. Notwithstanding the foregoing, either party may assign this Agreement in the event of a merger, consolidation or sale of all or substantially all of such party's business assets.
- 21) INSPECTION.** During the term of this Agreement, Employer, Employer's external auditors, and its supervising regulators may make reasonable inspection of systems and facilities at which the services are being provided upon reasonable prior notice to Claims Administrator during normal business hours on reasonable notice. All such inspections shall be made in a manner as not to delay or interfere with the provision of services.
- 22) WAIVER.** A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure.

23) COUNTERPARTS. This Agreement may be executed in one or more counterparts, all of which together shall constitute only one Agreement.

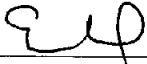
24) GOVERNING LAW. This Agreement shall be construed in accordance with the laws of the State of California, irrespective of its rules regarding conflict of laws.

25) ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the parties. This Agreement may not be cancelled or modified except in writing signed by both parties hereto. All provisions herein that by their sense and context are intended to survive the expiration or earlier termination of this Agreement shall so survive such expiration or termination.

26) BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

Compass Community Services



Print Name: Gregory N

Title: Executive Director

Date: 12/20/05

Witness:



Date: 12/20/05

Direct Dental



Print Name: John Cunningham

Title: President

Date: 12-12-05

Business Associate Contract Provisions

Attachment A

I. Definitions (alternative approaches)

Catch-all definition: Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule.

Examples of specific definitions:

- (a) *Business Associate.* “Business Associate” shall mean Direct Dental.
- (b) *Covered Entity.* “Covered Entity” shall mean the Employer.
- (c) *Individual.* “Individual” shall have the same meaning as the term “individual” in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (d) *Privacy Rule.* “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- (e) *Protected Health Information.* “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (f) *Required By Law.* “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR 164.501.
- (g) *Secretary.* “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.

II. Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement or as required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (f) Business Associate agrees to provide access, at the request of Covered Entity, during normal business hours to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered

Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.

- (g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner.
- (h) Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available during normal business hours to the Secretary, or Individual designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (i) Business Associate agrees to document such 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.
- (j) Business Associate agrees to provide to Covered Entity or an Individual, during normal business hours information collected in accordance with this Agreement, to permit 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.

Permitted Uses and Disclosures by Business Associate

III. General Use and Disclosure Provisions ((a) and (b) are alternative approaches)

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information on behalf of, or to provide services to, Covered Entity for the following purposes, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity:

Administration of dental benefit claims and enrollment information for self-funded dental benefit plans.

Refer to underlying services agreement:

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Administrative Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

IV. Specific Use and Disclosure Provisions (*only necessary if parties wish to allow Business Associate to engage in such activities*)

- (a) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

- (b) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (c) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).
- (d) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 164.502(j)(l).

VI. Obligations of Covered Entity

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

- (a) Covered Entity shall notify Business Associate of any limitations(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information
- (b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

VII. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

VIII. Term and Termination

- (a) *Term.* The term of this Agreement shall be effective as of April 14, 2003 and shall terminate when all the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to

such information, in accordance with the termination provisions in this Section.

- (b) *Termination for Cause.* Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 - (2) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible, or;
 - (3) If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.
- (c) *Effect of termination.*
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information this is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - (2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon determination by both parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protection of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

IX. Miscellaneous

- (a) *Regulatory References.* A reference in this Agreement to a section in the Privacy Rule means the Section as in effect or as amended.
- (b) *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (c) *Survival.* The respective rights and obligations of Business Associate under Agreement shall survive the termination of this Agreement.
Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.