

AGREEMENT BETWEEN COUNTY OF MONTEREY AND BENEFIT & RISK MANAGEMENT SERVICES, INC.

This AGREEMENT is made and entered into by and between the County of Monterey, a political subdivision of the State of California, hereinafter referred to as “County”, and Benefit & Risk Management Services, Inc. (BRMS), hereinafter referred to as “CONTRACTOR.”

RECITALS

WHEREAS, County has a need for Third-Party Administration (TPA) of the County’s Self-Insured Dental Plan and COBRA administration (hereafter separately or collectively “Plan”) in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, County and CONTRACTOR, for the consideration hereinafter named, agree as follows:

1.0 PERFORMANCE OF THE AGREEMENT

- 1.1 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR’s agents, employees, and subcontractors performing services under this AGREEMENT are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this AGREEMENT and are not employees of the County, or immediate family of an employee of the County.
- 1.2 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this AGREEMENT that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 1.3 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this AGREEMENT, except as otherwise specified in this AGREEMENT. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this AGREEMENT.

2.0 SCOPE OF SERVICES

- 2.1 CONTRACTOR shall administer the County’s Self-Insured Dental Benefit Plan for eligible County

employees.

- 2.2 CONTRACTOR shall provide up to four (4) in-person and up to (4) virtual informational seminars per year as requested by County staff on topics related to dental benefits.
- 2.3 CONTRACTOR shall be responsible for receipt of and processing of claims in accordance with the benefits summary in Exhibit A attached hereto.
 - 2.3.1 CONTRACTOR shall employ qualified personnel to ensure accurate processing of claims.
 - 2.3.2 CONTRACTOR shall be responsible for determining appropriate Coordination of Benefits and enrollees prior to claim determination.
 - 2.3.3 CONTRACTOR shall be responsible for determination of accuracy of claim information and eligible amounts payable.
 - 2.3.4 CONTRACTOR shall be responsible for denial of inappropriate or incorrect claims.
- 2.4 CONTRACTOR shall provide customer support services to enrollees to include coverage, information, provider directory information, claims status, and support related to denied claims.
 - 2.4.1 CONTRACTOR shall support an appeal process for enrollee dispute or claims payment or coverage determination and participate, at no additional cost, in any dispute between County and enrollees related to any benefit review determination made by CONTRACTOR.
- 2.5 County shall maintain a bank account to facilitate self-funding of claims processed by CONTRACTOR. Requests for funding of processed claims should be submitted by CONTRACTOR to County designees to include a list of checks processed and the associated claim information. County shall be responsible for reviewing the request for funding and, if appropriate, funding the account sufficiently to satisfy the request.
 - 2.5.1 County is responsible for notifying CONTRACTOR immediately of any dispute with or questions arising from request for funding.
 - 2.5.2 CONTRACTOR shall notify County within two (2) business days of payments accepted and deposits made to the account for COBRA payments and at the same time provide reconciliation reports of COBRA enrollments and terminations.
 - 2.5.3 CONTRACTOR shall provide to County a Payee Positive Pay report for each and every batch of checks issued. Said report shall be provided to County on the date the checks are issued, and it shall contain the information required by the County.
- 2.6 County agrees to abide by all terms of Participating Provider agreements entered into with Contracting Providers.
- 2.7 County shall determine eligibility to enroll status of employees and obtain all pertinent information from employee required for enrollment. County shall provide to CONTRACTOR all information necessary to complete enrollment status.
 - 2.7.1 County shall determine eligibility status for retirees. CONTRACTOR shall administer benefits for eligible retirees.
- 2.8 CONTRACTOR shall provide to County customized and routine reports (Dental Health Plan Spend Summary, Dental Lag Reports) as requested at no additional cost to County for the first 12 months.

After 12 months, custom report requests are charged per fee listed on Exhibit B.

- 2.9 CONTRACTOR shall provide to County at no cost all reports needed by the County to be able to reconcile the Dental bank account on a monthly basis. These reports shall be provided to County by the fifth workday of each month for the previous month.
- 2.10 CONTRACTOR shall be responsible for the notification of dental and vision COBRA eligibility, rates, and enrollment process to all qualified employees and dependents.
- 2.11 CONTRACTOR shall be responsible for the administration of dental and vision COBRA enrollment for eligible qualified employees and dependents.
- 2.12 COBRA Administration: With respect to the administration and processing of COBRA claims (including assisting County in the determination of the eligibility of applicants for COBRA coverage), if CONTRACTOR is engaged to perform such services, CONTRACTOR shall have the following responsibilities:
- 2.12.1 Initial COBRA Notification: CONTRACTOR shall provide the appropriate initial COBRA notification to covered Employees and dependent spouses in accordance with the requirements of COBRA.
- 2.12.2 Qualifying Event Notification: CONTRACTOR shall, upon notification from County of the occurrence of a Qualifying Event, promptly notify Qualified Beneficiaries of their right to continuation coverage under COBRA in accordance with the requirements of COBRA.
- 2.12.2.1 A Qualified Beneficiary means an employee who was covered by the plan on the day before a qualifying event occurred or that employee's spouse, former spouse, or dependent child.
- 2.12.2.2 A Qualifying Event means any of the following events that, but for the election of continuation of coverage provided hereunder, would result in a loss of coverage under the group benefit plan to a qualified beneficiary:
- The death of the covered employee.
 - The termination or reduction of hours of the covered employee's employment, except that termination for gross misconduct does not constitute a qualifying event.
 - The divorce or legal separation of the covered employee from the covered employee's spouse.
 - The loss of dependent status by a dependent enrolled in the group benefit plan.
 - With respect to dependent only, the covered employee's eligibility for coverage under Title XVIII of the United States Social Security Act (Medicare).
- 2.12.3 Monthly Reporting: CONTRACTOR shall, upon receipt of a response from an Employee selecting continuation coverage under COBRA, provide the following to County and the Employee, as applicable: (i) a monthly bill or coupon booklet directed to the recipient of continuation coverage to be used to remit payments of premium; (ii) receipt and accounting for premium payments; (iii) remittance of COBRA premiums received to County or the appropriate carriers and/or third party vendor; (iv) notice of termination of continuation coverage for nonpayment of premium, termination of coverage due to end of coverage

- period under COBRA, or termination of coverage for any reason permitted under COBRA.
- 2.12.4 Termination Notice: CONTRACTOR shall provide notice of termination of continuation coverage to the applicable Employee or other covered individual for nonpayment of premium, due to end of coverage period under COBRA, or for any reason permitted under COBRA.
- 2.12.5 Benefits Payment: The source of payment of COBRA benefits payable under the terms of the Plan shall be contributions made by Employees. Expenses of administration of the Plan shall be paid from contributions made by County on behalf of eligible participating Employees and contributions made by eligible participating Employees, if any.
- 2.12.6 Premium Payment: County understands and agrees that COBRA regulations do not require County to provide participants with a monthly bill statement or payment coupon after initial enrollment by the COBRA participant and that it is the responsibility of the COBRA participant to pay their COBRA premiums when due regardless of whether or not they receive a bill statement or payment coupon.
- 2.12.7 File Maintenance: CONTRACTOR shall maintain County's COBRA eligibility files and related records of all Employees and their dependents participating in COBRA in accordance with the Plan and applicable law.
- 2.12.8 Premium Fee: CONTRACTOR is hereby authorized to assess, collect and retain an administrative fee to be invoiced with the COBRA premium payments received by CONTRACTOR from COBRA participants. This administration fee charged to the COBRA participant by CONTRACTOR will not exceed the maximum amount permitted under COBRA. The administration fee charged to the COBRA participant will be retained by CONTRACTOR to offset administrative charges that would otherwise be borne by County.
- 2.12.9 Application Acceptance: To accept any application for benefits under COBRA from County made in the manner and on forms acceptable to CONTRACTOR.
- 2.12.10 Eligibility Determination: To assist County in the determination of eligibility for COBRA benefits payable under the terms of the Plan and to investigate and verify any statements contained in the application for benefits that, in CONTRACTOR's sole opinion, require additional information for verification. With respect to the requirements of continued eligibility of dependent children, CONTRACTOR shall have the following responsibilities:
- 2.12.10.1 CONTRACTOR shall provide County with a written monthly report of those dependents who have exceeded the maximum age limit within the terms of the Plan and terminate identified dependents unless or until CONTRACTOR has or receives documentation identifying that said dependent is disabled.
- 2.12.11 Eligibility Notice: To communicate COBRA eligibility under the Plan to those Employees who have elected to receive COBRA benefits from such Plan.
- 2.12.12 Claims Payment: To pay Claims from Funds contributed by the Employees through the payment of COBRA premiums provided, however, that, in the event COBRA premium payments submitted by the Employees are inadequate to allow payment of any Claims, CONTRACTOR shall have no responsibility to make any payment with regard to such Claims.
- 2.12.13 Regulation Compliance: To follow any rules or limitations under COBRA for the Plan, in which Employees may enroll, provided such rules or limitations were provided to CONTRACTOR by County. Examples of such rules are eligibility of retirees, domestic

partners, overage dependent limits, waiting periods, coverage effective dates, age banded rates, tier structure and rate change rules.

2.12.14 All obligations of CONTRACTOR for processing of eligibility and disbursements of premiums payable under COBRA, will be terminated and extinguished upon the date of termination of this Agreement. Any COBRA premiums payable incurred prior to the date of termination will be processed and paid only for the time period up to and ending with the date of termination. COBRA payments remaining unprocessed or unpaid as of the termination of this Agreement shall be returned to County by CONTRACTOR and shall no longer be the responsibility of CONTRACTOR.

2.13 Plan Administration Services: With respect to the administration of the Plan, if CONTRACTOR is engaged to perform such services, CONTRACTOR shall have the following responsibilities:

2.13.1 Documents and Forms: CONTRACTOR shall design, prepare and cause to be printed and supplied to County the documents and forms which are necessary for the administration of the Plan. Any expense incurred in the printing of such documents and forms (including plan booklets and summary plan descriptions) shall be an expense of the Plan.

2.13.2 File Maintenance: Utilizing information provided by County, CONTRACTOR shall establish and maintain (i) eligibility files based upon the information provided by County and (ii) records of all participating Employees and their dependents (including retirees, and COBRA participants) in accordance with the Plan.

2.13.3 Eligibility Processing: With respect to eligibility for participation in the Plan, CONTRACTOR shall have the following responsibilities:

2.13.3.1 CONTRACTOR shall communicate eligibility for the Plan to Employees who have elected to receive benefits from such Plan. Such communication may include electronic transfer of data, faxing or mailing of enrollment forms or copies of enrollment forms, electronic mail of pertinent eligibility information and/or telephone communications. It is noted that the communication of eligibility may at times require research and resolution of discrepancies, including reconciliation of monthly reports and bills with carrier information and other auditing tools as required.

2.13.3.2 CONTRACTOR shall maintain Employee eligibility under groups, divisions or branches using a separate location status identifier, provided each such group, division, or branch is provided to CONTRACTOR by County.

2.13.3.3 CONTRACTOR shall follow any guidelines or limitations of the Plan, provided such guidelines or limitations have been provided to CONTRACTOR by County. Examples of such guidelines and limitations are: eligibility of retirees, domestic partners, overage dependent limits, waiting periods, coverage effective dates, age banded rates, tier structure and rate change guidelines.

2.13.3.4 CONTRACTOR shall furnish the eligibility and payment information to County for auditing purposes upon the request of County.

2.13.4 Government Reports: Upon request, CONTRACTOR will provide to County data regarding disbursements for administrative charges and other expenses of the Plan necessary for County's preparation of reports, tax returns, statements or other documents required to be filed by County with any local political subdivision, state government or federal government, including, all reports required to be filed pursuant to ERISA.

However, County shall be solely responsible for the preparation and filing of any annual reports required by ERISA (including on IRS Form 5500) and CONTRACTOR shall not be responsible for the preparation and filing of such annual reports, unless CONTRACTOR specifically assumes such responsibility in a written agreement.

- 2.13.5 Premium Trust Account: Upon request, CONTRACTOR will provide assistance to County in County's efforts to develop an accounting policy for the Premium Trust Account designed to make contributions to the Premium Trust Account to ensure that sufficient funds are available to meet the obligations of the Plan. It shall be the responsibility of County to determine if changes in the accounting policies for the Premium Trust Account are needed and/or appropriate.
 - 2.13.6 Not Administrator: It is understood that CONTRACTOR is not and will not be treated as the Administrator or sponsor of any Plan for ERISA and all other purposes. CONTRACTOR is not a provider of health care services or benefits. Except as specifically set forth in this Agreement, CONTRACTOR shall have no responsibility or liability to any person for premiums of any Plan, or for payment of premiums or costs for any Plan provided by a third party.
 - 2.13.7 Medical Expense Audits: CONTRACTOR, with prior authorization from the County, shall be authorized to incur expenses to validate the charges of medical providers, including hospitals. CONTRACTOR may hire a third-party medical expense auditor in connection with such validation. The cost of auditing the charges of medical suppliers under this Section shall be deemed an expense of the Plan. These costs will be applied toward any stop-loss provision of the Plan.
 - 2.13.8 Access to Eligibility Data: CONTRACTOR agrees to allow and provide County complete and total access to Covered Person's eligibility data for the purpose of providing consulting assistance and customer service functions. Any and all available reports requested by County's designated agent shall be provided in a timely manner and in accordance with applicable state and federal privacy regulations.
 - 2.13.9 Audit: Should the Plan be the subject of a Department of Labor audit or any audit or investigation by any federal or state government or any agency thereof, CONTRACTOR is specifically authorized by County to cooperate with any such audit or investigation.
 - 2.13.10 Disclosure: In addition to the fees and reimbursement otherwise payable to CONTRACTOR under this Agreement, CONTRACTOR may receive other fees or revenue. In negotiating or obtaining any of these amounts CONTRACTOR is acting on its own behalf and not for the benefit of or as agents for any County, Account or Member.
- 2.14 Claims Administration Services: With respect to the administration, processing, and payment of Claims, if CONTRACTOR is engaged to perform such services, CONTRACTOR shall have the following responsibilities:
- 2.14.1 Claim Receipt: CONTRACTOR shall accept any Claim from County which shall be made in the manner prescribed by the Plan and upon the form or forms provided or approved by CONTRACTOR.
 - 2.14.2 Eligibility Determination: CONTRACTOR shall determine eligibility of a Claim for the payment of benefits including, as necessary and in the sole discretion of CONTRACTOR, investigation and verification of any statements contained in the Claim.
 - 2.14.3 Claim Payment: CONTRACTOR shall make payment from the Funds for Claims payable according to the Plan. Where authorized by the Plan, CONTRACTOR may make such

- payments to: (i) the Employee on behalf of a dependent, or (ii) to any physician, hospital, nurse or other medical supplier providing services to or on behalf of any Covered Person if there is an assignment of benefits executed by such Covered Person.
- 2.14.4 Claim Processing: CONTRACTOR shall complete Claim processing, determination, and payment within a reasonable time of receipt of the Claim, taking into consideration of the timing and volume of Claims submitted and the factors reasonably affecting the ability of CONTRACTOR to process Claims.
- 2.14.4.1 CONTRACTOR shall submit claims funding requests to the COUNTY within 15 days of receipt of claim from dental providers.
- 2.14.5 Inadequate Funds: In the event that Funds adequate to allow payment of one or more Claims shall not be made available by the Plan at the time payment is due, CONTRACTOR shall have no responsibility to make any payment with regard to such Claims unless and until sufficient funds are made available.
- 2.14.6 Monthly Reporting: Within thirty (30) days after the last day of each calendar month, CONTRACTOR shall send County a written report setting forth all disbursements of Funds made by CONTRACTOR in payment of Claims during the preceding calendar month. The report shall include a separate statement indicating payments made to or on behalf of dependents (as defined by the Plan) of Employees during the same month.
- 2.14.6.1 Reports shall be separated by enrollment category for Active, Retiree, and COBRA participants.
- 2.14.7 Claim Denial: CONTRACTOR may deny any Claim if CONTRACTOR determines that such Claim or Claimant is not eligible for benefits under the Plan and/or any guidelines provided by County. In the event of a denial of any Claim, CONTRACTOR shall provide written notice to the Claimant setting forth the specific reason or reasons for such denial, including such other information as is required by the Plan or applicable law to be provided, with a copy of such notice to the representative of County designated to receive such notices. A Claimant whose Claim has been denied shall be afforded any rights of appeal or other review process provided under the terms and conditions of the Plan or applicable law.
- 2.14.8 Claim Compromise: Upon direction of County, CONTRACTOR shall compromise and adjust any disputed Claim or application for benefits previously denied. However, any Claim so compromised or adjusted upon the direction of County may be considered as paid outside the coverage of the applicable excess risk policy of insurance and, if so, shall be the sole responsibility of County, except within provisions of the No Surprises Act.
- 2.14.9 Final Appeals: If CONTRACTOR is engaged to perform such services, County understands that CONTRACTOR will act on County's behalf to make claims determinations on final internal appeals. CONTRACTOR is hereby authorized to receive post-service final appeals from County or Covered Person on behalf of the Plans that CONTRACTOR services and issue a non-binding recommendation for claim payment eligibility in accordance with the terms of the Plan, plan document, reports and applicable law (in light of the facts and information submitted by and to the Parties). Directives issued by CONTRACTOR, applicable to post-service final appeals only, shall be non-binding upon the Plan, shall only constitute a recommendation, and are not intended to carry the weight and authority of a fiduciary determination. Any other guidance, advice, direction, consultation, or other service provided by CONTRACTOR shall be deemed to be in a non-fiduciary capacity. County acknowledges that the County or its Plan agrees to comply with all legal requirements related to the claims processing and be financially responsible for

Payable Claims.

2.14.10 Run Out Claims: Upon termination of the agreement, the County and CONTRACTOR may mutually agree that CONTRACTOR will continue to process run out Claims for a period of twelve (12) or six (6) months. The terms of the Agreement shall continue to apply insofar as applicable for the run-out period. The County may determine the claims run-out payment terms as listed below. Such Services shall be provided for a fee to be determined at the time of the termination of this agreement on the basis of the following:

2.14.10.1 Option 1: CONTRACTOR shall be paid six (6) months of the “Average Monthly Total Compensation” for Claims Administration Services, for twelve (12) months of Claims Administration Services, payable on or before the start of the run-out period.

2.14.10.1.1 The “Average Monthly Total Compensation” shall consist of the total of all Claims Administration Services, commissions or other compensation received by CONTRACTOR with respect to this Agreement during the last twelve (12) months of this Agreement, divided by twelve (12).

2.14.10.2 Option 2: CONTRACTOR shall be paid fifteen dollars (\$15) per claim processed.

2.14.10.2.1 If the run-out period extends beyond the twelve (12) month period, CONTRACTOR’s fee shall be fifteen dollars (\$15) per claim processed.

2.15 MyHealthBenefits Service: With respect to the administration of MyHealthBenefits, CONTRACTOR shall have the following responsibilities:

2.15.1 MyHealthBenefits Defined: “MyHealthBenefits” shall mean the machine-readable version of the Virtual Benefits Administration System computer software located at Folsom, CA (the “Site”) provided by CONTRACTOR in connection with and as a material part of the Services.

2.15.2 MyHealthBenefits License: Subject to the terms and conditions of this Agreement, CONTRACTOR hereby grants to County a non-exclusive, non-transferable and non-assignable license to access MyHealthBenefits solely (i) through the Site; (ii) by and through County’s Authorized Users (defined below); (iii) for County’s internal business purposes and for no other purpose. CONTRACTOR hereby grants County a non-exclusive, non-transferable and non-assignable license to use the documentation, instructional materials and user guides for MyHealthBenefits which CONTRACTOR may make generally available to CONTRACTOR’s customers and in the form (paper or electronic) selected by CONTRACTOR (collectively, the “Documentation”).

2.15.3 No Other Rights: Other than the license granted under Section 2.15.2, all right, title and interest in and to MyHealthBenefits, the Documentation, and all portions of the foregoing, including all intellectual property rights (e.g. patent, trade secret, copyright, trademark and similar rights), shall remain the property of CONTRACTOR or its licensors, as applicable. County’s use of third-party programs in conjunction with MyHealthBenefits is not covered by this Agreement and will be governed solely by the terms and conditions of the applicable third-party license agreements. Any rights not expressly licensed hereunder are reserved by CONTRACTOR.

2.15.4 Restrictions: To the maximum extent allowed by applicable law, neither County nor its

Authorized Users (defined below) shall reverse engineer, reverse assemble, decompile or otherwise attempt to derive source code of any software located on the Site or utilized in connection with the Service, including MyHealthBenefits. Neither County nor its Authorized Users shall (i) disassemble, unbundle or cause the disassembly or unbundling of MyHealthBenefits for any purpose; (ii) use MyHealthBenefits on a service bureau or time share basis or to provide services to third parties; (iii) distribute, copy, rent, lease, sublicense or otherwise transfer MyHealthBenefits to any third party; (iv) grant any third party, other than an Authorized User, access to MyHealthBenefits; or (iv) modify MyHealthBenefits for any purpose. Any modifications or configurations made to MyHealthBenefits shall be made by CONTRACTOR and shall be the sole and exclusive property of CONTRACTOR.

- 2.15.5 Principle User: County will designate a single individual to act as the “Principle User” for County’s use of MyHealthBenefits. CONTRACTOR will provide the Principle User with a password to access and use MyHealthBenefits. Principle User will have the ability to add, change or delete County Information on MyHealthBenefits. Principle User will have the sole authority to grant or delete MyHealthBenefits access privileges to Authorized Users (defined below). County is responsible for the designation of the Principle User and shall notify CONTRACTOR immediately by written notice should County wish to designate a replacement for the Principle User. County is solely responsible for the activation and deactivation of access for its Authorized Users.
- 2.15.6 Access to MyHealthBenefits by Authorized Users: An individual shall be an “Authorized User” only so long as he/she is an employee, contractor or agent of County who has received a valid password from the Principle User.
- 2.15.7 Passwords: Each Authorized User shall be issued a unique username and password by the Principle User. County agrees and shall cause each Authorized User to agree, that no username or password will be utilized at any time by any person other than the Authorized User to whom such user name or password was originally assigned. Upon written notice to CONTRACTOR, County may terminate an Authorized User’s access and substitute a new Authorized User. County shall be solely responsible for all activities of its Authorized Users and any party who accesses MyHealthBenefits through a password issued to County or an Authorized User. County agrees to immediately notify CONTRACTOR if County becomes aware of: (i) any loss or theft of any password, or (ii) any unauthorized use of any password, or (iii) any indication that anyone has or may have entered inaccurate, conflicting or inappropriate information into MyHealthBenefits.
- 2.15.8 Electronic Signature: County agrees on its own behalf and on behalf of its employees, to adopt as its/their signature a County identification code and a password, which is to be affixed to or contained in each transmission sent by such party (“Signature”). County hereby agrees and authorizes, on its own behalf and on behalf of its Employees, that its/their Signature shall act as its/their formal signature for all internet-based transactions among County, its employees, CONTRACTOR, vendors and any and all third parties. The initial Signature will be provided by CONTRACTOR to the Principle User in confidence. While using MyHealthBenefits, the Principle User and County’s employees will have the ability to change their Signature at any time. County agrees and authorizes, on its own behalf and on behalf of its employees that any Signature of County affixed to or contained in any electronic document shall be sufficient to verify that County executed such document and authorized the actions contemplated thereby. Such Signature shall be treated

- in all respects as having the same effect as an original handwritten signature. In each case in this Section, where County purports to bind either its Authorized Users or its employees or both, County represents and warrants to CONTRACTOR that County has the express authority to bind such Authorized Users and/or employees and understands that CONTRACTOR is expressly relying on such representation as a material inducement to CONTRACTOR's willingness to enter into this Agreement.
- 2.15.9 County Information: County shall populate MyHealthBenefits with the accurate and timely information necessary for use of MyHealthBenefits by County and its Authorized Users including, employment, personal and payroll information on employees; contact information on each contracted vendor; benefit packages; and rates, payment, eligibility, contact, broker of record, benefits, coverage, enrollment information on each contracted Plan and employee handbook information (collectively the "County Information"). County is solely responsible for the accuracy of the County Information on MyHealthBenefits.
- 2.15.10 Maintenance of Records: During the term of this Agreement, CONTRACTOR will maintain electronic records on MyHealthBenefits pertaining to the use thereof by County and its Authorized Users. CONTRACTOR will also maintain electronic records of transactions among CONTRACTOR, third party vendors, the County and Authorized Users using MyHealthBenefits. It is the responsibility of County to download (electronically or on paper) the County Information from MyHealthBenefits prior to the termination of this Agreement. Except as specifically provided in this Section, CONTRACTOR will not be responsible for storing copies of the County Information for archiving or back-up purposes.
- 2.15.11 Accessibility of Records: County shall have access to all County Information available through MyHealthBenefits during the term of this Agreement. Following termination of an Employee's benefits or of a Plan, CONTRACTOR will maintain the relevant electronic records in a manner accessible to and downloadable (or otherwise capable of copy) by County on MyHealthBenefits for twenty-four (24) months following the termination of the subject employee or Plan (provided this Agreement remains in effect for such period).
- 2.15.12 Security: CONTRACTOR will utilize reasonable security mechanisms at or relevant industry standards to protect the confidentiality and integrity of the County Information provided to MyHealthBenefits.
- 2.15.13 Right to Change MyHealthBenefits: CONTRACTOR shall have the right in its sole discretion to change MyHealthBenefits at any time, provided that CONTRACTOR shall provide County with thirty (30) days advance written notice of any material change to the functionality of MyHealthBenefits. CONTRACTOR is under no obligation to make any changes to MyHealthBenefits that County may request.
- 2.15.14 Connection to MyHealthBenefits: County, at its own expense, shall provide and maintain the equipment, software, communication lines, services and testing necessary to effectively and reliably transmit and receive documents and information over the Internet to and from MyHealthBenefits.
- 2.15.15 Agreements and Contracts with Vendors: County acknowledges that it and its employees may, through the use of MyHealthBenefits and otherwise, enter into separate agreements with vendors. The terms of such agreements shall be at the sole discretion of, and enforceable solely against, the parties thereto. CONTRACTOR makes no warranties or representations regarding, and shall have no liability with respect to, any coverage, right to coverage, eligibility, claims, enrollment, benefits, premiums, conditions, exclusions or any

other terms which may be available or agreed to under any such agreements and/or policies issued by or entered into with such third-party vendors.

- 2.16 Information from County: County shall provide the following documents and information to CONTRACTOR in order to allow CONTRACTOR to perform the Services:
- 2.16.1 Information in General. Throughout the term of this Agreement, County shall provide to CONTRACTOR, on a timely basis, all information that is requested by CONTRACTOR to perform the Services. In performing the Services, CONTRACTOR must necessarily rely upon County and others to provide CONTRACTOR with timely, accurate and complete information as requested by CONTRACTOR. CONTRACTOR shall not be responsible for any damages, claims or liability of any kind, caused directly or indirectly by the failure of County or others to provide such timely, accurate and complete information to CONTRACTOR, or by any other circumstance not within CONTRACTOR's direct control. County is responsible for supervising the production and timely delivery of all requested data and information to CONTRACTOR.
 - 2.16.2 Plan Documents: Within a reasonable period of time after the Effective Date of this Agreement, County shall provide CONTRACTOR with copies of all Plan documents. County shall provide CONTRACTOR with a true copy of any Plan amendment within a reasonable period of time after the effective date of such amendment. All original Plan records and documents shall be maintained by County.
 - 2.16.3 Covered Person Information: Throughout the term of this Agreement, County shall promptly provide to CONTRACTOR all information about the Employees and their family members who are Covered Persons under one or more Plans that CONTRACTOR may request or need in order for CONTRACTOR to perform the Services, including, census data (e.g., name, address, date of birth, date of hire, date of termination of employment, and hours of service), the coverage provided to the Employees and their family under the Plan, the effective date(s) of such coverage as to each such person, and all changes in such information.
 - 2.16.4 New Covered Person Information: Within a reasonable period of time after a Covered Person first becomes covered by one or more Plans during the term of this Agreement, County shall provide CONTRACTOR with written notice of such coverage.
 - 2.16.5 Changes in Information: County shall promptly notify CONTRACTOR of any changes in information previously given or supplied to CONTRACTOR, particularly with respect to any change or anticipated change in the Plan or in the Employee census data.
 - 2.16.6 Plan Modifications: County agrees that it will immediately notify Employees and CONTRACTOR of the cancellation or change in coverage of any Plan covering Employees and/or their dependents. County agrees to provide CONTRACTOR with timely notice of any: (i) change to a Plan, (ii) addition of new coverage to a Plan, (iii) deletion of coverage from a Plan; (iv) additions of a new Plan and (v) cancellation or termination of any Plan (each a "Plan Change"). County shall indemnify, defend and hold CONTRACTOR harmless from and against any and all Costs resulting (directly or indirectly) from the untimely notice to CONTRACTOR of any Plan Change.
 - 2.16.7 Additional Information: Throughout the term of this Agreement, County shall provide to CONTRACTOR such additional information as may be required in the Schedules.
- 2.17 Duties of County: County understands and agrees to perform the following obligations:

- 2.17.1 Document Execution and Delivery: County shall be responsible for the timely execution and delivery or filing with the applicable public agency of all documents and forms required from the County under the Plan or by applicable law. Although CONTRACTOR may assist County as requested in the preparation of such documents and forms, the decision to prepare and file such documents and forms shall be the sole responsibility of County.
- 2.17.2 Collection of Plan Contributions: County shall collect the contributions (excepting co-pays made at the time medical service is provided), if any, to be made by Employees for coverage according to the terms of the Plan, in such manner as County may deem appropriate and shall thereafter transfer required premiums to the Premium Trust Account.
- 2.17.3 Premium Trust Account Deposits: Promptly upon receipt of notice from CONTRACTOR, County shall pay into the Premium Trust Account such amounts as CONTRACTOR may request in order to pay insurance premiums payable under the terms of the Plan.
- 2.17.4 Enrollment Form Collection: County shall be solely responsible for collection of completed enrollment forms of Employees wishing to obtain benefits under the Plan and shall promptly transmit enrollments, to include enrollment changes, electronically to CONTRACTOR.
- 2.17.5 Enrollment Supplies: Except to the extent that CONTRACTOR is to supply such Services as set forth in Exhibit A hereof, County shall prepare or obtain supplies of enrollment forms, enrollment cards, Plan booklets and summary plan descriptions and shall distribute or make available such forms and documents to Employees.
- 2.17.6 Eligibility Verification: Except to the extent that CONTRACTOR is to supply such Services as set forth in Exhibit A hereof, County shall verify the eligibility of any individual enrolling for benefits pursuant to terms of the Plan which verification shall be made on the benefit enrollment form submitted by County to CONTRACTOR.
- 2.17.7 Enrollment Rule Instruction: County shall inform CONTRACTOR in writing of all enrollment rules and limitations regarding the Plan. Examples of which are eligibility of retirees, domestic partners, overage dependent limits, waiting periods, coverage effective dates, age banded rates, tier structure and rate change rules.
- 2.17.8 Rate Information: County shall provide in writing to CONTRACTOR the rates of all coverages and tier structures that may apply to the enrolling Employee and their dependents. County shall notify CONTRACTOR of rate changes that affect a Covered Person's premium payments.
- 2.17.9 COBRA Obligations: With respect to the requirements of COBRA relative to mandatory continuation of coverage of health benefits, County shall have the following responsibilities:
 - 2.17.9.1 County shall maintain records tracking the loss or reduction of coverage of any Employee covered under the Plan due to any Qualifying Event.
 - 2.17.9.2 County shall, upon loss or reduction of coverage due to a Qualifying Event, immediately notify CONTRACTOR of such loss or reduction of coverage specifying the date thereof, the name of the Employee suffering such loss or reduction in coverage, the reason for such loss or reduction, and shall specify the last known mailing address of the Qualified Beneficiaries suffering a loss or reduction of coverage due to the occurrence of a Qualifying Event. It shall be the responsibility of County to notify CONTRACTOR within thirty (30) days of the occurrence of a Qualifying Event.

- 2.17.9.3 CONTRACTOR shall within fourteen (14) days of receipt of notice of a Qualifying Event from the County send to the qualified employee or dependent's last known address, as provided by the County, the necessary benefit information, premium information, enrollment forms, and instructions to allow the qualified employee or dependent to formally elect continuation of coverage under the dental and vision plans as eligible.
 - 2.17.9.4 County agrees that CONTRACTOR shall not be responsible for any losses incurred by County due to the violation of the provisions of COBRA if such violations were occasioned by County's failure to abide by the terms and conditions of this Agreement.
 - 2.17.9.5 CONTRACTOR shall be solely responsible for processing completed enrollment forms of Employees wishing to obtain benefits under COBRA.
 - 2.17.9.6 County shall instruct CONTRACTOR in writing of all enrollment rules and limitations regarding all plans in which Employees may elect to enroll for COBRA benefits. Examples of which are eligibility of retirees, domestic partners, overage dependent limits, waiting periods, coverage effective dates, age banded rates, tier structure and rate change rules.
 - 2.17.10 CONTRACTOR Not Plan Sponsor: CONTRACTOR is not and will not be treated as the sponsor or plan administrator of any of the Plans under ERISA. CONTRACTOR is not a provider of health care services or benefits. CONTRACTOR shall have no responsibility or liability to any person for (i) any funding of any Plan benefits, (ii) the payment of any premiums or costs for Plan benefits provided by a third party (e.g., an insurance company or an HMO), (iii) providing any Plan benefits to any person, or (iv) the nature of quality of the benefits or services provided by third parties to County or any Covered Person.
 - 2.17.11 Instruction Request: CONTRACTOR may, by written request, seek instructions from County on any matter related to the interpretation of a Plan or the benefits thereunder, and may await the written instructions from County without incurring any liability under this Agreement whatsoever. If at any time County should fail to give directions to CONTRACTOR in a timely manner, CONTRACTOR may act or refrain from acting, and shall be protected in acting or refraining from acting without such directions, as CONTRACTOR deems in good faith to be appropriate and advisable under the circumstances.
 - 2.17.12 Business Associate Agreement: Concurrently with the execution hereof, County and CONTRACTOR agree to execute the HIPAA Business Associate Agreement attached hereto as Exhibit C.
 - 2.17.13 Dispute Resolution: If any dispute arises between County and any other person, including, without limitation, any Qualified Beneficiary, with respect to the interpretation of the Plan or the benefits thereunder, then CONTRACTOR shall not be obligated to take any other action in connection with the matter involved in the controversy until such time as the controversy is resolved. In addition, CONTRACTOR may deposit any cash or other property related to the controversy in an interpleader action with the court of jurisdiction under applicable law.
- 2.18 Banking Arrangements:
- 2.18.1 General Requirements: In the event any of the Services involve the handling by CONTRACTOR of Funds, CONTRACTOR shall segregate such Funds from

CONTRACTOR's own funds. If CONTRACTOR is unable to make any payment to any third party from such Funds due to the failure of County to provide adequate Funds to CONTRACTOR in a timely manner, then (i) CONTRACTOR shall not be responsible to any person for the failure to make such payment in a timely manner and (ii) such payment shall be required of CONTRACTOR no earlier than three (3) business days after the receipt of adequate and available Funds from County. County covenants not to deliver to CONTRACTOR any Plan assets that must be held in trust, it being specifically understood that CONTRACTOR has no responsibility whatsoever for the establishment, maintenance or administration of any trust and that CONTRACTOR is not a trustee or fiduciary with respect to any Plan assets.

2.18.2 Application of Insufficient Funds: If at any time contributions to the Plan made pursuant to any Premium Trust Account policy shall not be sufficient to meet the obligations of the Plan with regard to premiums payable and expenses payable according to the terms of the Plan, and if County has not notified CONTRACTOR in writing that the Plan is to terminate on or before such date, CONTRACTOR shall apply the Premium Trust Accounts in its charge as follows:

2.18.2.1 First, to the payment of fees and expenses incurred by CONTRACTOR in provision of the Services; and

2.18.2.2 Second, to the payment of premiums payable and administrative fees prior to the due date of any unpaid contributions.

2.18.3 Plan Termination: In the event of termination of the Plan due to unpaid contributions, CONTRACTOR will provide notification to the Covered Persons of the occurrence of such termination and the priority as to disbursement of remaining available Premium Trust Accounts.

3.0 TERM OF AGREEMENT

3.1 The term of this AGREEMENT is from **July 1, 2024** through and including **June 30, 2025**, unless sooner terminated pursuant to the terms of this AGREEMENT, with the option to extend this AGREEMENT upon mutual consent. County is not required to state a reason if it elects not to renew this AGREEMENT.

3.2 If County exercises its option to extend, all applicable parties shall mutually agree upon the extension, including any changes in rate and/or terms and conditions in writing.

3.3 County reserves the right to cancel this AGREEMENT, or any extension of this AGREEMENT, with a sixty (60)-day written notice without cause, or immediately with cause.

3.4 CONTRACTOR reserves the right to cancel this AGREEMENT, or any extension of this AGREEMENT, with a one hundred and twenty (120)-day written notice.

4.0 PAYMENT CONDITIONS

4.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated

under this AGREEMENT in accordance with the payment provisions attached hereto as EXHIBIT B – COST SUMMARY.

- 4.2 Prices shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph and Exhibit B – Cost Summary, attached hereto. County does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 4.3 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of one hundred and twenty (120) days prior to the expiration of this AGREEMENT or renewal thereof. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 4.4 Invoices for all services rendered per this AGREEMENT shall be billed directly to the Human Resources Department at the following three email addresses: ZamoraM@countyofmonterey.gov (Melissa Zamora, Benefits Program Manager) TapiaJL@countyofmonterey.gov (Jose L. Tapia, Finance Manager) and BenefitsHelp@co.monterey.ca.us.
- 4.5 CONTRACTOR shall submit such invoices on a monthly basis and not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the month being billed, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. County shall certify the invoice, either in the requested amount or in such other amount as County approves in conformity with this AGREEMENT and shall promptly submit such invoice to County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within thirty (30) days of receiving the certified invoice.
- 4.6 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by County. Surcharges and additional fees not included in the AGREEMENT must be approved by County in writing via an Amendment.
- 4.7 All County of Monterey Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 4.8 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than thirty (30) days.
- 4.9 CONTRACTOR shall levy no additional fees or surcharges of any kind during the term of this AGREEMENT without first obtaining approval from County in writing.

5.0 TERMINATION

- 5.1 During the term of this AGREEMENT, County may terminate this AGREEMENT for any reason by giving written notice of termination to the CONTRACTOR at least sixty (60) days prior to the effective date of termination. CONTRACTOR may terminate this AGREEMENT for any reason by giving written notice of termination to the County at least one hundred and twenty (120) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In

the event of such termination, the amount payable under this AGREEMENT shall be reduced in proportion to the services provided prior to the date of termination.

- 5.2 County may cancel and terminate this AGREEMENT for good cause effective immediately upon written notice to CONTRACTOR. “Good cause” includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this AGREEMENT. If County terminates this AGREEMENT for good cause, County may be relieved of the payment of any consideration to CONTRACTOR, and County may proceed with the work in any manner, which County deems proper. The cost to County shall be deducted from any sum due to CONTRACTOR under this AGREEMENT.
- 5.3 County’s payments to CONTRACTOR under this AGREEMENT are funded by local, state, and federal governments. If funds from local, state, and federal sources are not obtained and continued at a level sufficient to allow for the County’s purchase of the indicated quantity of services, then County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this AGREEMENT shall terminate immediately, or such date thereafter, as County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this AGREEMENT.

6.0 INDEMNIFICATION

- 6.1 CONTRACTOR shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys’ fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with CONTRACTOR’s performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. “CONTRACTOR’s performance” includes CONTRACTOR’s action or inaction and the action or inaction of CONTRACTOR’s officers, employees, agents, and subcontractors.
- 6.2 County agrees to indemnify, defend and hold harmless CONTRACTOR, its shareholders, directors, officers, employees, agents and subcontractors from and against any and all costs arising from or related to any and all third party Actions regarding: (i) the action or inaction of County in connection with this Agreement (ii) the provision of the Services by CONTRACTOR, except to the extent the Action pertains directly to CONTRACTOR’s proven gross negligence or willful misconduct; (iii) attempts to recover benefits alleged to be payable under the terms of the Plan, except to the extent the Action pertains to CONTRACTOR’s proven gross negligence or willful misconduct; (iv) any County Information posted to MyHealthBenefits; (v) any breach of this Agreement by an Authorized User of MyHealthBenefits. In furtherance of this indemnity obligation, County agrees that CONTRACTOR shall select, at its sole discretion, counsel of its choice to represent CONTRACTOR in connection with such Actions and to promptly reimburse CONTRACTOR in full for any and all such costs submitted by CONTRACTOR, regardless of whether or not the Action

is pending or has been adjudicated, settled or resolved, and regardless of any determination of fault as to County and/or any third party. If County claims CONTRACTOR was grossly negligent or engaged in willful misconduct, County must still indemnify CONTRACTOR and pay all costs relating to CONTRACTOR's defense of the Action, with a preservation of its own claims under a reservation of rights to be determined only subsequent to the resolution of the underlying Action.

7.0 INSURANCE REQUIREMENTS

7.1 Evidence of Coverage:

7.1.1 Prior to commencement of this AGREEMENT, CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, CONTRACTOR upon request shall provide a certified copy of the policy or policies.

7.1.2 This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. CONTRACTOR shall not receive a "Notice to Proceed" with the work under this AGREEMENT until it has obtained all insurance required and such, insurance has been approved by County. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.

7.2 Qualifying Insurers: All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by County's Purchasing Officer.

7.3 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

7.3.1 Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate.

7.3.2 Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

7.3.3 Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this AGREEMENT, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident

and \$1,000,000 each disease.

- 7.3.4 Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, CONTRACTOR shall, upon the expiration or earlier termination of this AGREEMENT, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this AGREEMENT.

7.4 Other Insurance Requirements:

- 7.4.1 All insurance required by this AGREEMENT shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this AGREEMENT.
- 7.4.2 Each liability policy shall provide that County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.
- 7.4.3 Additional Insured Status: The County of Monterey, its officers, officials, employees, and volunteers are to be covered as additional insureds on the commercial general liability policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage shall be provided in the form of an endorsement to the CONTRACTOR’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).
- 7.4.4 Primary Coverage: For any claims related to this AGREEMENT, the CONTRACTOR’s insurance coverage shall be primary and non-contributory and at least as broad as ISO 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR’s insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

- 7.4.5 Waiver of Subrogation: CONTRACTOR hereby grants to County a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the County by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
- 7.4.6 Prior to the execution of this AGREEMENT by County, CONTRACTOR shall file certificates of insurance with County's contract administrator and County's Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.
- 7.4.7 CONTRACTOR shall always during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this AGREEMENT, which entitles County, at its sole discretion, to terminate this AGREEMENT immediately.

8.0 RECORDS AND CONFIDENTIALITY

- 8.1 Confidentiality: CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this AGREEMENT, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this AGREEMENT except for the sole purpose of carrying out CONTRACTOR's obligations under this AGREEMENT.
- 8.2 County Records: When this AGREEMENT expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this AGREEMENT.
- 8.3 Maintenance of Records: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this AGREEMENT. CONTRACTOR shall maintain such records for a period of

at least three years after receipt of final payment under this AGREEMENT. If any litigation, claim, negotiation, audit exception, or other action relating to the AGREEMENT is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.

- 8.4 Access to and Audit of Records: County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. Pursuant to Government Code Section 8546.7, if this AGREEMENT involves the expenditure of public funds in excess of \$10,000, the parties to this AGREEMENT may be subject, at the request of County or as part of any audit of County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this AGREEMENT for a period of three years after final payment under the AGREEMENT.
- 8.5 Royalties and Inventions: County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this AGREEMENT. CONTRACTOR shall not publish any such material without the prior written approval of County.
- 8.6 Plan Record Availability: CONTRACTOR will make copies of any Plan records and documents in its possession available to County upon request. Alternatively, CONTRACTOR shall permit authorized representatives of County, at reasonable times, to have access to, examine, and make copies of, such records and documents, at County's expense.
- 8.7 Third Party Requests: Should copies of Plan records or documents be requested by any Employee, Covered Persons, court or governmental agency, CONTRACTOR will notify County of the request.
- 8.8 Duplicating Charges: CONTRACTOR reserves the right, in its sole and absolute discretion, to condition the making of any copies on its advance receipt of its customary copying charges. Notwithstanding any of the foregoing, any examination or copying of any Covered Persons' records shall be carried out in accordance with applicable law.
- 8.9 Record Retention: Upon the termination of this Agreement, CONTRACTOR shall have the option of retaining its copies of such records and documents for a period of three (3) years or delivering them to County. In no event will CONTRACTOR intentionally destroy its copies of any Plan records or documents without first notifying County by regular mail, sent to County's last known address, and providing County at least thirty (30) days within which to request that such copies be delivered to County at County's cost.

9.0 NON-DISCRIMINATION

- 9.1 During the performance of this AGREEMENT, CONTRACTOR and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government Code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to

recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this AGREEMENT, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this AGREEMENT shall not be deemed to be prohibited discrimination.

10.0 INDEPENDENT CONTRACTOR

- 10.1 In the performance of work, duties, and obligations under this AGREEMENT, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this AGREEMENT to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance, or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this AGREEMENT. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

11.0 COMPLIANCE WITH APPLICABLE LAWS

- 11.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 11.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 11.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

12.0 PERFORMANCE ASSURANCE AND WAIVER OF BREACH

- 12.1 Assurance of Performance: If at any time, County believes CONTRACTOR may not be adequately performing its obligations under this AGREEMENT or that CONTRACTOR may fail to complete the Services as required by this AGREEMENT, County may request from CONTRACTOR prompt

written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in CONTRACTOR's performance. CONTRACTOR shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. CONTRACTOR acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this AGREEMENT. If County accepts the plan, it shall issue a signed waiver.

- 12.2 Waiver: No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this AGREEMENT shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

13.0 INFORMATION PORTABILITY AND ACCOUNTABILITY ACT-HIPAA COMPLIANCE

- 13.1 CONTRACTOR agrees to operate its business in a manner as necessary to permit County to comply with its obligations under the Health Insurance Portability and Accountability Act of 1996, Subtitle F, Public Law 104-191, relating to the privacy and security of confidential health information, and any final regulations or rules promulgated by the U.S. Department of Health and Human Services thereunder (collectively, the "HIPAA Standards").
- 13.2 Information Portability and Accountability Act – HIPAA Compliance, please see Exhibit C.

14.0 FORCE MAJEURE

- 14.1 "Force Majeure" means any cause beyond the reasonable control of a party, including but not limited to acts of God, civil or military disruption, fire, strike, flood, riot, war, or inability due to the aforementioned causes to obtain necessary labor, materials or facilities.
- 14.2 If any party hereto is delayed or prevented from fulfilling its obligations under this AGREEMENT by Force Majeure, said party will not be liable under this AGREEMENT for said delay or failure, nor for damages or injuries resulting directly from the inability to perform scheduled work due to Force Majeure.
- 14.3 CONTRACTOR shall be granted an automatic extension of time commensurate with any delay in performing scheduled work arising from Force Majeure. CONTRACTOR agrees to resume such work within three (3) days after the Force Majeure has subsided enough to do so.

15.0 NOTICES

- 15.1 Notices required under this AGREEMENT shall be delivered personally or by first-class, postage

pre-paid mail to the County and CONTRACTOR's contract administrators at the addresses listed below:

FOR COUNTY:
County of Monterey
Attn: Jose L. Tapia
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901
Phone: (831) 755-5268
Email: TapiaJL@countyofmonterey.gov

FOR CONTRACTOR:
Benefit & Risk Management Services, Inc.
Attn: Legal
80 Iron Point Circle, Suite 200
Folsom, CA 95630
Phone: (916) 467-1233
Email: Matt.Schafer@brmsonline.com

16.0 LEGAL DISPUTES

- 16.1 CONTRACTOR agrees that this AGREEMENT and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
- 16.2 Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.
- 16.3 CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.
- 16.4 In the event of any conflict or inconsistency between the provisions of this AGREEMENT and the provisions of any exhibit or other attachment to this AGREEMENT, the provisions of this AGREEMENT shall prevail and control.

17.0 MISCELLANEOUS PROVISIONS

- 17.1 Conflict of Interest: CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this AGREEMENT, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this AGREEMENT.
- 17.2 Amendment: This AGREEMENT may be amended or modified only by an instrument in writing signed by County and CONTRACTOR.
- 17.3 Waiver: Any waiver of any terms and conditions of this AGREEMENT must be in writing and signed by County and CONTRACTOR. A waiver of any of the terms and conditions of this AGREEMENT shall not be construed as a waiver of any other terms or conditions in this AGREEMENT.
- 17.4 CONTRACTOR: The term "CONTRACTOR" as used in this AGREEMENT includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this AGREEMENT.

- 17.5 Assignment and Subcontracting: CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this AGREEMENT without the prior written consent of County. None of the services covered by this AGREEMENT shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this AGREEMENT.
- 17.6 Successors and Assigns: This AGREEMENT and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this AGREEMENT, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 17.7 Headings: The headings are for convenience only and shall not be used to interpret the terms of this AGREEMENT.
- 17.8 Time is of the Essence: Time is of the essence in each and all of the provisions of this AGREEMENT.
- 17.9 Non-exclusive Agreement: This AGREEMENT is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 17.10 Construction of Agreement: County and CONTRACTOR agree that each party has fully participated in the review and revision of this AGREEMENT and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this AGREEMENT or any amendment to this AGREEMENT.
- 17.11 Counterparts: This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same AGREEMENT.
- 17.12 Authority: Any individual executing this AGREEMENT on behalf of County or CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this AGREEMENT on behalf of such party and bind the party to the terms and conditions of this AGREEMENT.
- 17.13 Integration: This AGREEMENT, including the exhibits, represent the entire AGREEMENT between County and CONTRACTOR with respect to the subject matter of this AGREEMENT and shall supersede all prior negotiations, representations, or agreements, either written or oral, between County and CONTRACTOR as of the effective date of this AGREEMENT, which is the date that County signs this AGREEMENT.
- 17.14 No Legal Services: County acknowledges that CONTRACTOR is not authorized to engage in the practice of law and that CONTRACTOR will not provide legal services to County or any other person. County shall not rely upon CONTRACTOR in any way for any legal opinions or legal documents that County or any Plan fiduciary may require. Whenever a legal issue arises in the course of the work to be performed under this Agreement, County shall obtain such legal counsel as may be necessary to resolve the issue. County shall notify CONTRACTOR of the resolution and CONTRACTOR shall be entitled to rely upon that decision in performing its services for County.

- 17.15 Advice and Recommendations: Although CONTRACTOR may from time to time call to County's attention and/or make recommendations regarding potential or actual problems with respect to the operation and administration of the Plan, County understands and agrees that such advice and recommendations are a matter of accommodation only and that CONTRACTOR has no duty to give such advice, make such recommendations, or otherwise to question any actions or decisions of County, the sponsoring County, any Plan fiduciary, or any of their respective agents or employees.
- 17.16 Not a Fiduciary: County understands and agrees that CONTRACTOR is not the plan sponsor, plan administrator or plan fiduciary under ERISA for the Plan and that CONTRACTOR does not act in any fiduciary capacity with respect to the Plan. CONTRACTOR acts in an administrative support capacity only. CONTRACTOR shall not have any discretionary responsibilities in the administration of the Plan. CONTRACTOR shall not be responsible for reporting and disclosure compliance under ERISA. County will make certain that the sponsoring County, all Plan fiduciaries, and the participants understand CONTRACTOR's non-fiduciary status as well. County and each Plan fiduciary shall retain his, her, its or their full authority, discretion, and responsibility for the operation of the Plan with respect to which CONTRACTOR is providing the Services. County's decision as to any Claim under the Plan shall be final and binding. County represents and warrants that it is the County, plan sponsor, plan administrator and plan fiduciary under ERISA for the Plan. County is solely responsible for state and federal disclosure and reporting requests in connection with its activities under this Agreement. County agrees to maintain Plan in full compliance with all applicable laws and regulations.
- 17.17 Policy Coverage: County acknowledges that CONTRACTOR has not been contracted by the County to procure policy coverage, including but not limited Stop Loss coverage. CONTRACTOR is indemnified from any losses related to coverage not placed by CONTRACTOR. County agrees to provide such indemnification and to assume liability related to the procurement and operation of any coverage related to the plan.
- 17.18 No Underwriting by CONTRACTOR: County expressly agrees and understands that CONTRACTOR does not insure or underwrite the liability of County under any Plan. CONTRACTOR verifies the eligibility of an individual for benefits under the Plan only and in no event guarantees payment of benefits. County retains sole responsibility for payment of all Claims made under the Plan and all expenses and fees incurred incident thereto.

18.0 CONSENT TO USE ELECTRONIC SIGNATURES

- 18.1 The parties to this AGREEMENT consent to the use of electronic signatures via DocuSign to execute this AGREEMENT. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 et seq.; California Government Code Section 16.5; and California Civil Code Section 1633.1 et seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this AGREEMENT hereby authenticate and execute this AGREEMENT, and any and all exhibits to this AGREEMENT, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

- 18.2 The parties of this AGREEMENT understand and agree that this AGREEMENT can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.
- 18.3 Executed counterparts of this AGREEMENT may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by email transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

*****THIS SECTION INTENTIONALLY LEFT BLANK*****

IN WITNESS WHEREOF, County and CONTRACTOR have executed this AGREEMENT as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

By: _____
Contracts/Purchasing Officer

Contractor's Business Name*

Date: _____

Approved as to Form:

By: _____
(Signature of Chair, President, or
Vice-President)*

By: _____
County Counsel

Name and Title

Date: _____

Date: _____

Approved as to Fiscal Provisions:

By: _____
Auditor/Controller

By: _____
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)*

Date: _____

Name and Title

Approved as to Liability Provisions:

By: _____
Risk Management

Date: _____

Date: _____

County Board of Supervisor's Agreement Number: _____, approved on (date): _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

EXHIBIT A – BENEFITS SUMMARY

COUNTY OF MONTEREY DENTAL BENEFITS SUMMARY

- Calendar Year Max: \$2,000.00 per family member. *No waiting periods.*
- Calendar Year Deductible: \$50.00 per member / \$100.00 per family.

Preventive Covered at 100%

Exams	2 per calendar year
Prophylactic cleanings	2 cleanings per calendar year
Bitewings	2 sets per calendar year
FMX or Panoramic X-Ray	1 in 36 months
Fluoride	1 per year, <i>benefit only for 18 years of age and under</i>
Sealants (On non-carious permanent molars)	1 per year, <i>benefit only for 15 years of age and under</i>
Space Maintainers for missing primary teeth	1 per year, <i>benefit only for 16 years of age and under, Please indicate the space being maintained</i>

Basic Covered at 80%

Fillings	Composites or amalgams, posterior composites not reduced to amalgams
Oral Surgery	Includes local anesthesia (also general IV)
Periodontics	D4341 one time per quadrant every 12 months, <i>pocket markings must be sent</i>
Endodontics	Root Canals
Occlusal Guard	For Bruxism only, <i>excludes TMJ, must submit documentation and requires prior authorization</i>

Major Covered at 50%

Crowns	Replacements once every 5 years, <i>prior extractions not covered</i>
Bridges	
Dentures	
Posts	
Build-ups	
Inlays and Onlays	

Orthodontia \$1,500 Lifetime Maximum

\$1,500 Lifetime Max (Payable at 50% up to maximum allowable)

\$1,500.00 per member, *no deductible, no age limit, pre-determination is needed* *****Services must be started while on the plan. Services started prior to joining the plan will NOT be covered.**

Services NOT Covered

- | | |
|---|--|
| <ul style="list-style-type: none"> • Implants • Athletic mouth guards • Bleaching • Cosmetic Dentistry • Experimental Procedures • Fractures or Dislocation of Jaw • Orthodontic Services not prescribed and installed by a licensed Dentist | <ul style="list-style-type: none"> • Replacement of missing teeth (prior extractions) • Alteration or extraction and replacement of sound teeth • Services related to an occupational injury or sickness • Services rendered in a hospital setting • Services performed by a government agency • Loss or theft of an appliance or prosthesis • Temporomandibular Joint Syndrome treatment • Any service not listed as specifically covered |
|---|--|

COVERED EXPENSES

Subject to the Alternate Benefits section set forth above, Covered Expenses are USUAL OR PREVAILING CHARGES by a dentist for necessary care of the teeth, gums, mouth or supporting structures of the teeth furnished to a family member while covered under the Plan’s Dental Care Coverage. There are three types of Covered Expenses: Preventative Dental Expenses, Basic Dental Expenses and Major Dental Expenses. Not all expenses are covered. See - WHAT EXPENSES ARE NOT COVERED?

A Covered Expense will be deemed incurred as follows:

1. For full dentures or partial dentures: on the date the final impression is taken
2. For fixed bridges, crowns, inlays or onlays: on the date the teeth are first prepared
3. For root canal therapy: on the date the pulp chamber is first opened
4. For periodontal surgery: on the date the surgery is actually performed
5. For all other services: on the date the service is performed

A temporary dental service will be deemed an integral part of the final dental service rather than on a separate service.

Preventive Dental Expenses

Preventive Dental Expenses are for the following services:

ROUTINE ORAL EXAMS – Charges for routine exams, including cleaning of teeth, but no more than two every calendar year.

DIAGNOSTIC X-RAYS – Charges for bitewing x-rays (but no more than four such x-rays, twice during any period of 12 consecutive months as part of routine oral exam), complete mouth survey or panoramic x-rays, (but no more than one during any period of 36 consecutive months) as part of a routine oral exam.

SPACE MAINTAINERS – Charges for space maintainers for missing primary teeth to a family member under age 16, but no more than one every calendar year.

FLOURIDE TREATMENT – Charges for topical application of sodium or stannous fluoride to a family member under age 18, but no more than one every calendar year.

SEALANTS – Charges for the application of sealants to a family member under age 15, but no more than once, per tooth, during any calendar year on non-carious permanent molars.

Basic Dental Expenses

Basic Dental Expenses are for the following services:

ORAL SURGERY – Charges for surgery performed on the gums and teeth. This includes removal of impacted or erupted teeth and preparation of the gums for dentures.

X-RAYS – Charges for any dental x-ray not provided about in Preventive Dental Expenses when needed in connection with the diagnostic or treatment of a specific condition.

EXTRACTIONS – Charges made for extractions, but not prior extractions.

ANESTHESIA – Charges for anesthesia administered in connection with covered dental services.

PERIODONTICS – Charges for treatment of periodontal and other disease of the gums and tissues of the mouth. Charges for periodontal scaling and root planing are limited to no more than one time per quadrant of the mouth in any period of 12 consecutive months. Periodontal maintenance is included with prophylaxis.

ENDODONTICS – Charges for root canal therapy.

FILLINGS – Charges for fillings, other than gold fillings. Posterior composites are not downgraded to amalgam.

MEDICINE – Charges for medicines and drugs administered by a dentist.

PALLIATIVE TREATMENT – Charges for palliative treatment (treatment to relieve pain) will be covered as a separate procedure only if no other service (except x-rays) is rendered during the visit.

REPAIR WORK – Charges for repair and re-cementing or crowns, inlays and fixed bridgework; or relining or re-basing of dentures more than six months after the installation of an initial or replacement denture, but no more than one relining or rebasing during any period of 24 consecutive months.

NIGHTGUARDS – Covered for Bruxism (grinding) only.

Major Dental Expenses

Major Dental Expenses are for the following services:

RESTORATIONS – Charges for inlays, onlays, crowns and gold fillings.

BRIDGES AND DENTURES – Charges for initial installation of dentures or fixed bridgework or crowns if the existing denture, bridgework or crown was installed at least five years prior to its replacement and cannot be made serviceable or cannot be repaired. The replacement will not be covered if due to loss or theft.

Also, charges for replacement of existing dentures or fixed bridgework, or for the addition of teeth to existing dentures or fixed bridgework, if needed to replace at least one natural tooth extracted while the family member is covered under the Plan's Dental Care Coverage.

EXPENSES NOT COVERED

The following charges are not covered or are covered only to the extent stated.

CHARGES FOR WHICH THE INSURED IS NOT RESPONSIBLE – This Plan only considers reimbursement of charges that are the responsibility of the insured to pay.

Benefits will not be paid for charges the insured has no responsibility to pay. This may occur as a result of recovery from a third party, from a dentist not billing (waiving) deductibles and co-insurance requirements of the Plan, etc.

The Plan may require proof of payment for deductibles and co-insurance portions of the bill. Be sure to keep all cancelled checks or receipts of cash payments for at least one year in the event the administrator requires verification. Benefits may be reduced for any payment made by the Plan for which the insured was not financially responsible.

OCCUPATIONAL INJURY – Charges due to an on the job injury. “On the job” means employment with any employer or self-employment.

OCCUPATIONAL SICKNESS – Charges due to any sickness for which an insured person is entitled to benefits under a Worker's Compensation Act or similar act.

GOVERNMENT SERVICES – Charges for dental service furnished by or paid for by any government or government agency would not have been required to pay for the services in the absence of insurance for dental care.

COSMETIC DENTISTRY – Charges in connection with dental services primarily for the purpose of improving appearance. For example, the following are not covered:

- alteration or extraction and replacement of SOUND TEETH
- any treatment of the teeth to remove or lessen discoloration except in connection with endodontic treatment
- replacement of congenitally missing teeth
- all appliances and restorations for the purpose of splinting teeth, except A-splinting and provisional splinting in connection with periodontal treatment

TREATMENT STARTED BEFORE COVERAGE BEGINS – Charges for the following are not covered:

- dentures, if the impression for the dentures was taken before the date the family member's Dental Care coverage began
- crowns, inlays, bridges or gold restorations if preparation of the teeth was begun before the date the family member's Dental Care coverage began
- root canal therapy if pulp cap was opened before the date the family member's Dental Care coverage began

SERVICES BY A HOSPITAL – Charges for dental services furnished by a hospital.

EXPERIMENTAL PROCEDURES – Charges for procedures that do not have uniformed professional endorsement or are experimental in nature. Charges for any related services furnished in connection with Experimental Procedures are also not covered.

FRACTURES – Charges for treatment of fractures or dislocation of jaw.

LOSS OR THEFT – Charges due to loss or theft of an appliance or prosthesis.

IMPLANTS – Charges for tooth implants and related services (including implant crowns) are not covered.

ATHLETIC MOUTH GUARDS – Charges for athletic mouth guards are not covered.

APPLIANCES – Charges for veneers are not covered except for those procedures that are not done solely for cosmetic purposes.

TEMPOROMANDIBULAR JOINT SYNDROME – Charges for, in connection with, treatment of temporomandibular joint syndrome.

ORTHODONTIA – Charges for orthodontic treatment and appliances.

OTHER COVERED EXPENSES – Charges for any dental services that are not Covered Expenses under any part of this Plan.

PRIOR EXTRACTIONS – Not covered.

EXHIBIT B – COST SUMMARY

The County agrees to the terms set forth in this AGREEMENT to pay CONTRACTOR the following fees:

Third Party Claims Administration	Fee
Dental Claims Administration Implementation	\$2,500.00
Dental Claims Administration	Year 1: \$3.50 PEPM Year 2: \$3.75 PEPM Year 3: \$4.00 PEPM
MyHealthBenefits	For SF Plans Admin by BRMS:
Consolidated Billing & Reconciliation	Included in Dental Claims Admin
HRIS Payroll Data Exchange	Waived at implementation

Additional Claims Services	Fee
Annual Plan Renewal	\$500.00
ID Cards	\$1.85 Per Card + Postage
Digital ID Cards	\$0.50 Per Image
Summary Plan Document (SPD) Creation	\$2,500.00 Per Document
Summary Plan Document (SPD) Amendment	\$250.00 Per Amendment
Run-in Claims Administration	\$15.00 Per Claim not to exceed \$87, 525.
Data Analytics & Reporting	Included in Dental Claims Admin
Custom Reporting	Waived for Year 1 After Year 1: \$125.00/Hour
Document Translation via TransPerfect (quoted upon request)	At Cost
Banking Fees	At Cost
Meeting Participation	4 in-person informational seminars per year and up to 4 virtual informational seminars per year.

Elective Ancillary Services	Fee
COBRA Implementation	\$500.00
COBRA/HIPAA Administration	\$0.80 PEPM
COBRA/HIPAA Monthly Minimum	\$50.00
COBRA Open Enrollment Packets (Upon Request)	\$15.00 Per Packet Plus Postage
COBRA Initial Notices & Qualifying Event Notices	Included in COBRA Admin

Dental Claims Administration

Fee is calculated per reported enrolled employee (or retiree) per month. Cost shall be separated between “Active” and “Retiree” enrollees.

COBRA/HIPAA Administration

Fee is calculated per active enrolled employee per month.

EXHIBIT C – HIPAA BUSINESS ASSOCIATE AGREEMENT

1. Preamble.

Benefit & Risk Management Services (“Business Associate”) and (“Covered Entity”) ----- (jointly “the Parties”) wish to enter into this HIPAA Business Associate Agreement (“Agreement”) which is intended to comply with the requirements of: (i) the implementing regulations at 45 C.F.R Parts 160, 162, and 164 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) (i.e., the HIPAA Privacy, Security, Electronic Transaction, Breach Notification, and Enforcement Rules (“the Implementing Regulations”)), (ii) the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the “HITECH Act”) that are applicable to business associates, and (iii) the requirements of the final modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules as issued on January 25, 2013 and effective March 26, 2013 (75 Fed. Reg. 5566 (Jan. 25, 2013) (“the Final Regulations”). The Implementing Regulations, the HITECH Act, and the Final Regulations are collectively referred to in this Agreement as “the HIPAA Requirements.” Covered Entity and Business Associate agree to incorporate into this Agreement any regulations issued by the U.S. Department of Health and Human Services (“DHHS”) with respect to the HIPAA Requirements that relate to the obligations of business associates and that are required to be (or should be) reflected in a business associate agreement. Business Associate recognizes and agrees that it is obligated by law to meet the applicable provisions of the HIPAA Requirements and that it has direct liability for any violations of the HIPAA Requirements.

2. Definitions.

2.1 “Breach” shall mean, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of Unsecured Protected Health Information in a manner not permitted by the HIPAA Requirements that compromises the security or privacy of that Protected Health Information.

2.2 “Business Associate Subcontractor” shall mean, as defined in 45 C.F.R. § 160.103, any entity (including an agent) that creates, receives, maintains or transmits Protected Health Information on behalf of Business Associate.

2.3 “Electronic PHI” shall mean, as defined in 45 C.F.R. § 160.103, Protected Health Information that is transmitted or maintained in any Electronic Media.

2.4 “Limited Data Set” shall mean, as defined in 45 C.F.R. § 164.514(e), Protected Health Information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:

- (a) Names;
- (b) Postal address information, other than town or city, State, and zip code;
- (c) Telephone numbers;
- (d) Fax numbers;
- (e) Electronic mail addresses;
- (f) Social security numbers;
- (g) Medical record numbers;
- (h) Health plan beneficiary numbers;
- (i) Account numbers;
- (j) Certificate/license numbers;
- (k) Vehicle identifiers and serial numbers, including license plate numbers;

- (l) Device identifiers and serial numbers;
- (m) Web Universal Resource Locators (URLs);
- (n) Internet Protocol (IP) address numbers;
- (o) Biometric identifiers, including finger and voice prints; and
- (p) Full face photographic images and any comparable images.

2.5 “Protected Health Information” or “PHI” shall mean, as defined in 45 C.F.R. § 160.103, information created or received by a Health Care Provider, Health Plan, employer, or Health Care Clearinghouse, that: (i) relates to the past, present, or future physical or mental health or condition of an individual, provision of health care to the individual, or the past, present, or future payment for provision of health care to the individual; (ii) identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; and (iii) is transmitted or maintained in an electronic medium, or in any other form or medium. The use of the term “Protected Health Information” or “PHI” in this Agreement shall mean both Electronic PHI and non-Electronic PHI, unless another meaning is clearly specified.

2.6 “Security Incident” shall mean, as defined in 45 C.F.R. § 164.304, the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

2.7 “Unsecured Protected Health Information” shall mean, as defined in 45 C.F.R. § 164.402, Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by DHHS.

2.8 All other capitalized terms used in this Agreement shall have the meanings set forth in the applicable definitions under the HIPAA Requirements.

3. General Terms.

3.1 In the event of an inconsistency between the provisions of this Agreement and a mandatory term of the HIPAA Requirements (as these terms may be expressly amended from time to time by the DHHS or as a result of interpretations by DHHS, a court, or another regulatory agency with authority over the Parties), the interpretation of DHHS, such court or regulatory agency shall prevail. In the event of a conflict among the interpretations of these entities, the conflict shall be resolved in accordance with rules of precedence.

3.2 Where provisions of this Agreement are different from those mandated by the HIPAA Requirements, but are nonetheless permitted by the HIPAA Requirements, the provisions of this Agreement shall control.

3.3 Except as expressly provided in the HIPAA Requirements or this Agreement, this Agreement does not create any rights in third parties.

4. Specific Requirements

4.1 Flow-Down of Obligations to Business Associate Subcontractors. Business Associate agrees that as required by the HIPAA Requirements, Business Associate will enter into a written agreement with all Business Associate Subcontractors that: (i) requires them to comply with the Privacy and Security Rule provisions of this Agreement in the same manner as required of Business Associate, and (ii) notifies such Business Associate Subcontractors that they will incur liability under the HIPAA Requirements for non-compliance with such provisions. Accordingly, Business Associate shall ensure that all Business Associate Subcontractors agree in writing to the same privacy and security restrictions, conditions and requirements that apply to Business Associate with respect to PHI.

4.2 Privacy of Protected Health Information

- (a) Permitted Uses and Disclosures of PHI. Business Associate agrees to create, receive, use, disclose, maintain or transmit PHI only in a manner that is consistent with this Agreement or the HIPAA Requirements and only in connection with providing the services to Covered Entity identified in the Agreement. Accordingly, in providing services to or for the Covered Entity, Business Associate, for example, will be permitted to use and disclose PHI for “Treatment, Payment, and Health Care Operations,” as those terms are defined in the HIPAA Requirements. Business Associate further agrees that to the extent it is carrying out one or more of the Covered Entity’s obligations under the Privacy Rule (Subpart E of 45 C.F.R. Part 164), it shall comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.
- i. Business Associate shall report to Covered Entity any use or disclosure of PHI that is not provided for in this Agreement, including reporting Breaches of Unsecured Protected Health Information as required by 45 C.F.R. § 164.410 and required by section (4.2) (e)(ii) below.
 - ii. Business Associate shall establish, implement and maintain appropriate safeguards, and comply with the Security Standards (Subpart C of 45 C.F.R. Part 164) with respect to Electronic PHI, as necessary to prevent any use or disclosure of PHI other than as provided for by this Agreement.
- (b) Business Associate Obligations. As permitted by the HIPAA Requirements, Business Associate also may use or disclose PHI received by the Business Associate in its capacity as a Business Associate to the Covered Entity for Business Associate’s own operations if:
- i. the use relates to: (i) the proper management and administration of the Business Associate or to carry out legal responsibilities of the Business Associate, or (ii) data aggregation services relating to the health care operations of the Covered Entity; or
 - ii. the disclosure of information received in such capacity will be made in connection with a function, responsibility, or services to be performed by the Business Associate, and such disclosure is required by law or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidential and the person agrees to notify the Business Associate of any breaches of confidentiality.
- (c) Minimum Necessary Standard and Creation of Limited Data Set. Business Associate’s use, disclosure, or request of PHI shall utilize a Limited Data Set if practicable. Otherwise, in performing the functions and activities as specified in the Agreement, Business Associate agrees to use, disclose, or request only the minimum necessary PHI to accomplish the intended purpose of the use, disclosure, or request.
- (d) Access. In accordance with 45 C.F.R. § 164.524 of the HIPAA Requirements, Business Associate will make available to the Covered Entity (or as directed by the Covered Entity, to those individuals who are the subject of the PHI (or their designees)), their PHI in the Designated Record Set. Business Associate shall make such information available in an electronic format where directed by the Covered Entity.

(e) Disclosure Accounting. Business Associate shall make available the information necessary to provide an accounting of disclosures of PHI as provided for in 45 C.F.R. § 164.528 of the HIPAA Requirements by making such information available to the Covered Entity or (at the direction of the Covered Entity) making such information available directly to the individual. Business Associate is not required to record disclosure information or otherwise account for disclosures of PHI that this Agreement or the Agreement in writing permits or requires: (i) for the purpose of payment activities or health care operations (except where such recording or accounting is required by the HITECH Act, and as of the effective dates for this provision of the HITECH Act), (ii) to the individual who is the subject of the PHI disclosed, or to that individual's personal representative; (iii) to persons involved in that individual's health care or payment for health care; (iv) for notification for disaster relief purposes, (v) for national security or intelligence purposes, (vi) to law enforcement officials or correctional institutions regarding inmates; (vii) pursuant to an authorization; (viii) for disclosures of certain PHI made as part of a limited data set; and (ix) for certain incidental disclosures that may occur where reasonable safeguards have been implemented.

(f) Amendment. Business Associate shall make PHI in a Designated Record Set available for amendment and, as directed by the Covered Entity, incorporate any amendment to PHI in accordance with 45 C.F.R. § 164.526 of the HIPAA Requirements.

(g) Right to Request Restrictions on the Disclosure of PHI and Confidential Communications. If an individual submits a Request for Restriction or Request for Confidential Communications to the Business Associate, Business Associate and Covered Entity agree that Business Associate, on behalf of Covered Entity, will evaluate and respond to these requests according to Business Associate's own procedures for such requests. Covered Entity, in its sole discretion, may elect to review and determine the response.

(h) Return or Destruction of PHI. Upon the termination or expiration of the Agreement or this Agreement, Business Associate agrees to return the PHI to Covered Entity, destroy the PHI (and retain no copies), or if Business Associate determines that return or destruction of the PHI is not feasible, (i) continue to extend the protections of this Agreement and of the HIPAA Requirements to the PHI, and (ii) limit any further uses and disclosures of the PHI to the purpose making return or destruction infeasible.

(i) Availability of Books and Records. Business Associate shall make available to DHHS or its agents the Business Associate's internal practices, books, and records relating to the use and disclosure of PHI in connection with this Agreement.

(j) Termination for Breach.

i. Business Associate agrees that Covered Entity shall have the right to terminate this Agreement or seek other remedies if Business Associate violates a material term of this Agreement.

ii. Covered Entity agrees that Business Associate shall have the right to terminate this Agreement or seek other remedies if Covered Entity violates a material term of this Agreement.

4.3 Information and Security Standards

(a) Business Associate will develop, document, implement, maintain, and use appropriate Administrative, Technical, and Physical Safeguards to preserve the Integrity, Confidentiality, and Availability of, and to prevent non-permitted use or disclosure of, Electronic PHI created or received for or from the Covered Entity.

(b) Business Associate agrees that with respect to Electronic PHI, these Safeguards, at a minimum, shall meet the requirements of the HIPAA Security Standards applicable to Business Associate.

(c) More specifically, to comply with the HIPAA Security Standards for Electronic PHI, Business Associate agrees that it shall:

- i. Implement Administrative, Physical, and Technical Safeguards consistent with (and as required by) the HIPAA Security Standards that reasonably protect the Confidentiality, Integrity, and Availability of Electronic PHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate shall develop and implement policies and procedures that meet the documentation requirements as required by the HIPAA Requirements;
- ii. As also provided for in section 4.1 (ii) above, ensure that any Business Associate Subcontractor agrees to implement reasonable and appropriate safeguards to protect the Electronic PHI;
- iii. Report to Covered Entity any unauthorized access, use, disclosure, modification, or destruction of PHI (including Electronic PHI) not permitted by this Agreement, applicable law, or permitted by Covered Entity in writing (“Successful Security Incidents” or Breaches) of which Business Associate becomes aware. Business Associate shall report such Successful Security Incidents or Breaches to Covered Entity as specified in section 4.2 (a) (i)
- iv. For Security Incidents that do not result in unauthorized access, use, disclosure, modification, or destruction of PHI (including, for purposes of example and not for purposes of limitation, pings on Business Associate’s firewall, port scans, attempts to log onto a system or enter a database with an invalid password or username, denial-of-service attacks that do not result in the system being taken off-line, or malware such as worms or viruses) (hereinafter “Unsuccessful Security Incidents”), aggregate the data and, upon the Covered Entity’s written request, report to the Covered Entity in accordance with the reporting requirements identified in 4.6 (a);
- v. Take all commercially reasonable steps to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from any unauthorized access, use, disclosure, modification, or destruction of PHI;
- vi. Permit termination of this Agreement if the Covered Entity determines that Business Associate has violated a material term of this Agreement with respect to Business Associate’s security obligations and Business Associate is unable to cure the violation; and
- vii. Upon Covered Entity’s request, provide Covered Entity with access to and copies of documentation regarding Business Associate’s safeguards for PHI and Electronic PHI.

4.4 Compliance with HIPAA Transaction Standards

(a) Application of HIPAA Transaction Standards. Business Associate will conduct Standard Transactions consistent with 45 C.F.R. Part 162 for or on behalf of the Covered Entity to the extent such Standard Transactions are required in the course of Business Associate’s performing services under the Agreement and this Agreement for the Covered Entity. As provided, Business Associate will require any Business Associate Subcontractor involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 C.F.R. Part 162. Further, Business Associate will not enter into, or permit its Subcontractors to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of the Covered Entity that:

- i. Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;
- ii. Adds any data element or segment to the maximum defined data set;
- iii. Uses any code or data element that is marked “not used” in the Standard Transaction’s implementation specification or is not in the Standard Transaction’s implementation specification; or
- iv. Changes the meaning or intent of the Standard Transaction’s implementation specification.

(b) Specific Communications. Business Associate, Plan Sponsor and Covered Entity recognize and agree that communications between the parties that are required to meet the Standards for Electronic Transactions will meet the Standards set by that regulation. Communications between Plan Sponsor and Business Associate, or between Plan Sponsor and the Covered Entity, do not need to comply with the HIPAA Standards for Electronic Transactions. Accordingly, unless agreed otherwise by the Parties in writing, all communications (if any) for purposes of “Enrollment” as that term is defined in 45 C.F.R. Part 162, Subpart O or for “Health Covered Entity Premium Payment Data,” as that term is defined in 45 C.F.R. Part 162, Subpart Q, shall be conducted between the Plan Sponsor and either Business Associate or the Covered Entity. For all such communications (and any other communications between Plan Sponsor and the Business Associate), Plan Sponsor shall use such forms, tape formats, or electronic formats as Business Associate may approve. Plan Sponsor will include all information reasonably required by Business Associate to affect such data exchanges or notifications.

(c) Communications Between the Business Associate and the Covered Entity. All communications between the Business Associate and the Covered Entity that are required to meet the HIPAA Standards for Electronic Transactions shall do so. For any other communications between the Business Associate and the Covered Entity, the Covered Entity shall use such forms, tape formats, or electronic formats as Business Associate may approve. The Covered Entity will include all information reasonably required by Business Associate to affect such data exchanges or notifications.

4.5 Notice and Reporting Obligations of Business Associate

(a) Notice of Non-Compliance with the Agreement. Business Associate will notify Covered Entity within 15 calendar days after discovery, any unauthorized access, use, disclosure, modification, or destruction of PHI (including any successful Security Incident) that is not permitted by this Agreement, by applicable law, or permitted in writing by Covered Entity, whether such non-compliance is by (or at) Business Associate or by (or at) a Business Associate Subcontractor.

(b) Notice of Breach. Business Associate will notify Covered Entity following discovery and without unreasonable delay but in no event later than 15 calendar days following discovery, any Breach of Unsecured Protected Health Information, whether such Breach is by Business Associate or by Business Associate Subcontractor.

i. As provided for in 45 C.F.R. § 164.402, Business Associate recognizes and agrees that any acquisition, access, use or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule (Subpart E of 45 C.F.R. Part 164) is presumed to be a Breach. As such, Business Associate shall (i) notify Covered Entity of any non-permitted acquisition, access, use or disclosure of PHI, and (ii) assist Covered Entity in performing (or at Covered Entity’s direction, perform) a risk assessment to determine if there is a low probability that the PHI has been compromised.

ii. Business Associate shall cooperate with Covered Entity in meeting the Covered Entity’s obligations under the HIPAA Requirements and any other security breach notification laws. Business Associate shall follow its notification to the Covered Entity with a report that meets the requirements outlined immediately below.

4.6 Reporting Obligations.

(a) For Successful Security Incidents and Breaches, Business Associate – without unreasonable delay and in no event later than 15 calendar days after Business Associate learns of such non-permitted use or disclosure (whether at Business Associate or at Business Associate Subcontractor) – shall provide Covered Entity a report that will:

i. Identify (if known) each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, or disclosed;

- ii. Identify the nature of the non-permitted access, use, or disclosure including the date of the incident and the date of discovery;
- iii. Identify the PHI accessed, used, or disclosed (e.g., name; social security number; date of birth);
- iv. Identify what corrective action Business Associate (or Business Associate Subcontractor) took or will take to prevent further non-permitted accesses, uses, or disclosures;
- v. Identify what Business Associate (or Business Associate Subcontractor) did or will do to mitigate any deleterious effect of the non-permitted access, use, or disclosure; and
- vi. Provide such other information, including a written report, as the Covered Entity may reasonably request.

(b) For Unsuccessful Security Incidents, Business Associate shall provide Covered Entity, upon its written request, a report that: (i) identifies the categories of Unsuccessful Security Incidents as described in 4.3 (c) (iv); (ii) indicates whether Business Associate believes its (or its Business Associate Subcontractor’s) current defensive security measures are adequate to address all Unsuccessful Security Incidents, given the scope and nature of such attempts; and (iii) if the security measures are not adequate, the measures Business Associate (or Business Associate Subcontractor) will implement to address the security inadequacies.

4.7 Termination.

(a) Covered Entity and Business Associate each will have the right to terminate this Agreement if the other party has engaged in a pattern of activity or practice that constitutes a material breach or violation of Business Associate’s or the Covered Entity’s respective obligations regarding PHI under this Agreement and, on notice of such material breach or violation from the Covered Entity or Business Associate, fails to take reasonable steps to cure the material breach or end the violation.

(b) If Business Associate or the Covered Entity fail to cure the material breach or end the violation after the other party’s notice, the Covered Entity or Business Associate (as applicable) may terminate this Agreement by providing Business Associate or the Covered Entity written notice of termination, stating the uncured material breach or violation that provides the basis for the termination and specifying the effective date of the termination. Such termination shall be effective 60 days from this termination notice.

4.8 Continuing Privacy and Security Obligations. Business Associate’s and the Covered Entity’s obligation to protect the privacy and security of the PHI it created, received, maintained, or transmitted in connection with services to be provided under the Agreement and this Agreement will be continuous and survive termination, cancellation, expiration, or other conclusion of this Agreement or the Agreement. Business Associate’s other obligations and rights, and the Covered Entity’s obligations and rights upon termination, cancellation, expiration, or other conclusion of this Agreement, are those set forth in this Agreement and/or the Agreement.

IN WITNESSETH WHEREOF, the parties hereto have caused this Agreement to be executed, under seal, on their behalf by their officers or duly authorized representatives, as of the day and year first above written.

County of Monterey _____
 Date: _____
 By: _____
 Printed Name: _____
 Title: _____
 Address: _____

Benefit & Risk Management Services, Inc. _____
 Date: _____
 By: _____
 Printed Name: Matthew Schafer
 Title: Chief Executive Officer
 Address: 80 Iron Point Circle, Suite 200
Folsom, California 95630