

AGENDA ITEM SUMMARY

DATE: 11/28/11 DEPARTMENT: PW - WW DEPT. HEAD SIGNATURE: 

SUBJECT: Approval of Task Order #4 with HDR Engineering for assistance with comments on the new EPA NPDES draft permit.

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

On November 14, 2011 the city council gave direction to limit HDR Engineering's scope of work to commenting on the draft NPDES permit and to limit the task order to \$30,000. The attached task order reflects this direction.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle

Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- | | | |
|---|--|---|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Benefits Committee |
| <input type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
| <input type="checkbox"/> City Clerk | <input type="checkbox"/> Planning | <input type="checkbox"/> Treasurer |
| <input type="checkbox"/> Building | <input type="checkbox"/> Police | _____ |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Public Works, Parks | _____ |
| <input type="checkbox"/> Fire Dept. | <input type="checkbox"/> P & Z Commission | _____ |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to ^{ratify} ~~approve~~ Resolution 2011-46, approving Task Order #4 submitted by HDR Engineering for a not-to exceed amount of \$30,000 for engineering costs associated with the Woodside Treatment Plant discharge permit.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agrmt./Order Originals: Record
Copies (all info.): _____
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

**CITY OF HAILEY
RESOLUTION NO. 2011-46**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY
AUTHORIZING THE EXECUTION OF A CONTRACT FOR SERVICES WITH
HDR ENGINEERING, INC.**

WHEREAS, the City of Hailey desires to enter into an agreement with HDR Engineering, Inc. (HDR) under which HDR will perform services to assist with the Wastewater Treatment Plant's discharge permit (NPDES permit).

WHEREAS, the City of Hailey and HDR have agreed to the terms and conditions of the Contract for Services, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Contract for Services between the City of Hailey and HDR Engineering, Inc. and that the Mayor is authorized to execute the attached Agreement,

Passed this ¹⁴₂₈ day of November, 2011.

City of Hailey

Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

EXHIBIT A

TASK ORDER NO. 4**ENGINEERING SERVICES FOR NPDES PERMITTING STRATEGY AND
TECHNICAL ASSISTANCE FOR THE CITY OF HAILEY**

This Task Order pertains to an Agreement by and between City of Hailey, Idaho, ("OWNER"), and HDR Engineering, Inc. ("ENGINEER"), dated August 10, 2009, ("the Agreement"). Engineer shall perform services on the project described below as provided herein and in the Agreement. This Task Order shall not be binding until it has been properly signed by both parties. Upon execution, this Task Order shall supplement the Agreement as it pertains to the project described below.

BACKGROUND

The City of Hailey currently discharges treated water from the Woodside Wastewater Treatment Plant to the Big Wood River permitted under the National Pollutant Discharge Elimination System (NPDES) program. The City of Hailey's current NPDES permit expired June 12, 2006 and the City operates under an administratively extended permit.

Based on the TMDL and initial indications from EPA, the next NPDES permit issued to the City of Hailey could include lower effluent phosphorus concentration limits, lower bacteria limits, and other changes which could lead to expensive infrastructure modifications. In a September 21, 2011 news release, the Idaho Department of Environmental Quality (DEQ) issued errata for the Big Wood River TMDL relating to the *E. coli* wasteload allocations. The City of Hailey provided public comment on the errata in support of the *E. coli* wasteload allocation changes but also with respect to the methods used to develop the total phosphorus (TP) and total suspended solids (TSS) wasteload allocations. Based on further communication with DEQ, it appears errata for TP and TSS will not be issued and permit changes will require negotiations with EPA.

The purpose of this effort is to provide the City of Hailey with technical support to assist in meeting the challenges of obtaining a favorable NPDES permit for their wastewater program. This technical support involves review of the most recent permit application and current permit and fact sheet. Parameters of primary interest during the review include total phosphorus, *E. coli*, and total suspended solids. The work completed in this scope will include preparation of comments on draft NPDES permit requirements.

PROPOSED SCOPE OF SERVICES

The proposed scope of services include continued support to the City of Hailey related to the Big Wood River TMDL and associated NPDES Permitting Strategy. The process for negotiating a NPDES permit requires flexibility in addressing various issues and responses from the regulatory agencies. This scope of services addresses another phase of this process triggered by recent activities of the regulatory agencies. The proposed scope of Consultant services includes the following tasks.

TASK 100 - PROJECT MANAGEMENT AND PROJECT MEETINGS**Objective**

Update project guide; provide scope, schedule, and cost control services; and initiate and attend project coordination meetings.

HDR Subtasks

- Monitor team scope, budget, and schedule; delegate task assignments and responsibilities by discipline; and coordinate issues with City of Hailey's Project Manager.
- Up to three 1-hour conference calls between HDR's project manager, HDR's project principal, and City of Hailey.
- Prepare monthly progress reports and invoices that summarize the work progress to date, the budget expenditures to date.
- Provide review of criteria and concepts being applied to this task order and monitor status of quality control reviews of project deliverables.
- Prepare agenda and notes for meetings.

City of Hailey Involvement

- Interface with Consultant on project issues.

Assumptions

- Unless otherwise stated, meetings will be conducted at the Hailey City Hall or the Wastewater Treatment Plant.
- Monthly progress reports for the duration of the project (see Project Schedule).
- If the scope changes during the life of the project, modification to the original contract agreement will be required per the terms and conditions of the agreement.
- Invoice format will follow standard format by the Consultant.
- Execution of the Quality Control/Quality Assurance Plan will be completed under the corresponding tasks.

Deliverables

- Progress reports and invoices (1 hard copy each month).
- Meeting agenda and notes (Microsoft Word format).

TASK 200 - CONTINUED ASSISTANCE FOR TMDL AND NPDES PERMIT NEGOTIATIONS**Objective**

The objective of this task is to continue to provide technical support to the City of Hailey regarding the Big Wood River TMDL, recycled water use, and associated NPDES permit renewal and wastewater facilities.

Approach

- Review the City of Hailey's final NPDES permit, fact sheet, responses to comments, and correspondence/letters with EPA and DEQ.
- Review the draft NPDES permit compared to the current NPDES permit, including newly proposed effluent limitations and monitoring requirements. The review and comparison will include:
 - Assessing the averaging periods for effluent limitations.

- Reviewing potential compliance schedules, interim limits, and special condition clauses.
- Continue to review plant operational data to better understand the current phosphorus removal mechanisms (the extent of luxury uptake of phosphorus).
- Prepare for and participate in one 2-hour preparatory meetings with the City of Hailey to review the draft NPDES permit analyses and develop the City of Hailey's strategy.
- Develop a draft letter commenting on the draft NPDES permit. Consideration for wastewater treatment improvements and alternative effluent limits based on the City's recycled water program objectives and the Big Wood River water quality will be included during permit review.
- Discuss with the City two alternative potential phosphorus load reduction strategies (wastewater treatment plant improvements and recycled water use) and estimate the range of phosphorus load reduction potential for each strategy.
- Participate in one conference call and one meeting with EPA to discuss the status of the City of Hailey's NPDES permit.

City Involvement

- Provide NPDES permit applications and modifications, final permit, fact sheet, responses to comments, and correspondence with EPA and DEQ for examination.
- Provide input on pre-draft permit issues and concerns.
- Review draft letter within 14 days and provide one consolidated, unconflicting set of comments.
- Participate in meeting with EPA.

Assumptions

- Analysis of mixing zone calculations used to set the effluent limitations in the permit is not included in this scope of services.
- Opinions of estimated conceptual capital and operating costs for potential phosphorus reduction strategies are provided in the wastewater facility plan for treatment improvements and the conceptual recycled water plan for recycled water improvements.
- Justification for a compliance schedule to meet new NPDES permit limits is not included in this scope of services.
- After execution of the activities described in this task order, the strategy will be re-evaluated. The findings of the reviews will be discussed along with alternative strategies and alternative paths forward as part of a review meeting with the City of Hailey.
- Up to two (2) HDR staff will attend the preparatory meetings in Hailey and up to two (2) other HDR staff will attend the preparatory meetings via conference call.
- There will be one meeting and one conference call with EPA. The order and agenda of these meetings will be decided as part of the first preparatory meeting with the City of Hailey.
- Meeting with EPA will be located in Hailey. Up to four HDR staff will attend the meeting.
- Meetings and conference calls will last no more than two hours.

Deliverables

- Draft letter in response to the draft NPDES permit (Microsoft Word format)
- Final letter in response to the draft NPDES permit (Microsoft Word format)

PROJECT SCHEDULE**ENGINEERING SERVICES FOR NPDES PERMITTING STRATEGY AND
TECHNICAL ASSISTANCE FOR THE CITY OF HAILEY**

The project schedule for performing the task order is as follows:

Task	Schedule (Assuming NTP of November 17, 2011)
Task 100 - Project Management and Project Meetings	Throughout the duration of the project
Task 200 - Continued Assistance for TMDL and NPDES Permit Negotiations	NTP through February 15, 2012

*This schedule is based upon an assumed notice to proceed. If the notice to proceed is delayed, the project schedule will shift the corresponding number of calendar days.

COMPENSATION

**ENGINEERING SERVICES FOR NPDES PERMITTING STRATEGY AND
TECHNICAL ASSISTANCE FOR THE CITY OF HAILEY**

The estimated cost to complete this Scope of Services is presented in the table below.

Task	Budget
Task 100 - Project Management and Project Meetings	\$4,686
Task 200 - - Continued Assistance for TMDL and NPDES Permit Negotiations	\$25,314
TOTAL	\$30,000

HDR will invoice the City of Hailey for professional services described in this Proposal on a time and materials basis. For the activities described in the Scope of Services, HDR estimates a professional services fee of not to exceed the total described in the table above without written authorization from the City.

This Task Order is executed this _____ day of _____, 20__.

City of Hailey, Idaho

HDR ENGINEERING, INC.

“OWNER”

“ENGINEER”

BY:

BY:

NAME:

NAME:

Karen M. Doherty, P.E.

TITLE:

TITLE:

Vice President

ADDRESS:

115 Main Street S.

ADDRESS:

412 E. Parkcenter Blvd.

Hailey, ID 83333

Suite 100

Boise, ID 83706

TELEPHONE:

TELEPHONE:

(208) 387-7000

AGENDA ITEM SUMMARY

DATE: 11/23/11 DEPARTMENT: Admin DEPT. HEAD SIGNATURE: _____

SUBJECT:

Health Benefits – Delta Dental contract, costs of health insurance, III-A timing, budget analysis

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Due to State regulatory complications and timing, it is unclear if III-A's proposal will be approved in time for the benefit cycle beginning January 1, 2012. Attached please find letter to all employees, included with pay notices.

- Blue Cross rates are increasing 23.4%
- Delta Dental rates have increased 3%; we must enroll for one year if we are to continue. The contract is included
- VSP rates will not change, as a two year contract was signed last fall

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____

Budget Line Item # _____ YTD Line Item Balance \$ _____

Estimated Hours Spent to Date: _____ Estimated Completion Date: _____

Staff Contact: _____ Phone # _____

Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

<input type="checkbox"/> City Administrator	<input type="checkbox"/> City Clerk	<input type="checkbox"/> Benefits Committee
<input type="checkbox"/> City Attorney	<input type="checkbox"/> Mayor	<input type="checkbox"/> Treasurer

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

We need to be certain we have group health insurance, should III-A not receive approval for the January 1 start. To that end, we will continue on a month-to-month basis with Blue Cross.

- Delta Dental has offered a rate with only a 3% increase; there is no cost disadvantage to engaging in a one year contract for dental coverage and it will be simpler for the employees.
- A two year contract with VSP was entered into on January 1, 2011 and remains in force. There is no rate change.

COUNCIL ACTION:

- **MOTION TO APPROVE AND ALLOW MAYOR TO SIGN DELTA DENTAL CONTRACT FOR THE CALENDAR YEAR 2012.**

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agrmt./Order Originals: Record *Additional/Exceptional Originals to: _____

Copies (all info.): _____ Copies (AIS only)

Instrument # _____

EMPLOYEE HEALTH INSURANCE OPEN ENROLLMENT PERIOD DECEMBER 1-30, 2011-----RATE INCREASE

The City of Hailey is proceeding with our involvement in the self-insurance coalition known as III-A. There are over 800 members and the group is very competent. The State regulatory commission has not, at this point, given assurance that we can actually begin January 1, 2012. We need to be certain we have group health insurance, should III-A not receive approval for the January 1 start. To that end, we will continue on a month-to-month basis with Blue Cross. III-A has assured us that, when approved, our rates and coverage will be the same as our 2011 Blue Cross rates and coverage. In the interim, we will IMPLEMENT Blue Cross' increased rates for January, 2012, to keep our current coverage in place. If III-A approvals are in place for February 1 the increase in health premiums (Blue Cross) will only be in effect for one month, the month of January (deducted in December).

The month of December is Open Enrollment for our health benefits. Below is a table of the rates for dependent coverage at the current premium and at the new levels.

	BLUE CROSS CURRENT	BLUE CROSS 2012	DELTA DENTAL CURRENT	DELTA DENTAL 2012	VSP CURRENT	VSP 2012
EMPLOYEE	411.98	507.80	43.10	44.40	8.39	8.39
SPOUSE	398.51	491.76	44.95	46.30	5.04	5.04
1 CHILD	87.74	108.28	44.95	46.30	5.32	5.32
CHILDREN	361.94	446.64	108.70	111.96	5.32	5.32
FAMILY	720.22	888.79	108.70	111.96	13.70	13.70

Again, III-A has stated that whatever structure we have for our 2011 insurance (deductibles, rates, etc.) will be reinstated through III-A when it is given approval to proceed.

We are looking at a 23.4% increase with our current policy (Blue Cross). We have looked at other options; changing the deductible, changing the carrier, self-insuring, dropping/reducing benefits. We considered switching carriers to maintain the current structure AND fairly similar rate but do not have the necessary assurances we can rely on the rates we were quoted without another health questionnaire. We will continue to pursue these options in order to be prepared to utilize better options should III-A continue to face State regulatory challenges past February 1, 2012.

- If you have no changes to your dependent structure, the new premium rate will be deducted with your next pay check.
- If you opt to change dependent coverage, you have only through the month of December to notify HR and complete the necessary forms (available from Robin Crotty).
- If you make changes after December 1 the difference will be adjusted in the December 22 pay.
- If you make changes after December 15 but before December 31 any difference will be adjusted in the first pay check of January.
- Life-Flight is paid for all employees and their dependents; please be sure HR has all names listed.
- All employees must complete the FLEX enrollment form during December, to continue, change or opt out of this program. The form is included for your convenience; please return to Robin Crotty by December 30, 2011.
- The Meritain Health Coverage Questionnaire is needed for III-A set-up. Please fill out by December 1 following instructions below.

MERITAIN HEALTH COVERAGE QUESTIONNAIRE

Please take a few minutes to complete the attached form as soon as possible, preferably by December 1. This is necessary to set up claims processing by the Third Party Administrator contracted by the III-A. The form gathers information as to how you, your spouse, and all eligible dependents are covered, either through insurance offered by City of Hailey or through another carrier. This form should be completed for all employees and all family members, regardless of whether or not they are on your current policy. Please return form to Robin Crotty.

**CITY OF HAILEY
RESOLUTION NO. 2011-47**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY TO ENTER
INTO A CONTRACT FOR 2012 DENTAL INSURANCE COVERAGE**

WHEREAS, the City of Hailey desires to enter into a Contract Dental Insurance Service with Delta Dental of Idaho at a cost of \$44.40 per employee per month.

WHEREAS, the City of Hailey and Delta Dental of Idaho have agreed to the terms and conditions of the Contract, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Contract for Dental Insurance Service between the City of Hailey and Delta Dental of Idaho and that the Mayor is authorized to execute the attached Agreement.

Passed this 28th day of November, 2011

City of Hailey

Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

Delta Dental of Idaho

Contract

prepared for:

City of Hailey

Delta Dental of Idaho

Delta Dental Premier

This contract originally effective the 1st day of September, 1995 A.D., by and between City of Hailey, hereinafter referred to as the contractor and DELTA DENTAL OF IDAHO, INC., an Idaho nonprofit corporation, hereinafter referred to as Delta Dental.

Section I. Declarations

The benefits afforded are only with respect to such benefits as are indicated in this contract. Delta Dental's liability is limited to the benefits stated herein; subject to all the terms of this contract having reference thereto.

- A. **Effective Date of Contract Term:** 12:01 A.M. Standard Time, January 01, 2012 A.D.
- B. **Renewal Date:** January 01, 2013
- C. **Contract Term:** One year
- D. **Group Number:** 0905
- E. **Eligibility (subscriber and dependents):**

All employees of the contractor working at least 20 hours per week are eligible to be subscribers.

Where two subscribers who are legally married to each other are eligible under the same group or any other dental group of the contractor and/or have dental coverage separately or jointly under any other contractor, they will be enrolled under one enrollment card and will receive benefits under a single contract without coordination of benefits under the Delta Dental contract.

Dependents of above-mentioned subscribers are also eligible.

- F. **Eligibility Period:**

All new subscribers (and their dependents, if covered above), defined as eligible subscribers added to the covered group who are hired after the effective starting date of the contract will be eligible for enrollment on the first day of the month following 2 full months of employment.

- G. **Late Enrollee:**

Any employee and/or their dependent(s) who did not enroll on the dental plan following completion of the employee's eligibility period, as defined above, will be considered a late enrollee and will have a 24 month waiting period for Major Services (Class III), and a 24 month waiting period for Orthodontic Services (Class IV). The late enrollee waiting period shall be in addition to any other service waiting periods on the plan.

Delta Dental of Idaho

H. Covered Services:

	Delta Dental Pays	Subscriber Pays
Class I Benefits		
Diagnostic and Preventive Services	100%	0%
Radiographs	100%	0%
Class II Benefits		
Oral Surgery Services	80%	20%
Endodontic Services	80%	20%
Periodontic Services	80%	20%
Minor Restorative Services	80%	20%
Class III Benefits		
Major Restorative Services	50%	50%
Prosthodontic Services	50%	50%
Class IV Benefits		
Orthodontic Services Child and Adult	50%	50%

I. Deductible:

\$25 deductible per person total per calendar year limited to a maximum deductible of \$75 per family per calendar year on Class II and Class III Benefits. The deductible does not apply to Class I or Class IV Benefits.

J. Maximum Payment:

\$1,500 per person total per calendar year on Class I, Class II, and Class III Benefits. Delta Dental's payment for Class IV Benefits will not exceed a lifetime maximum of \$1,500 per eligible person.

K. Rate:

Employee	\$44.40	\$45.29
Employee + One Dependent	\$90.70	\$92.51
Employee + Two or more Dependents	\$156.36	\$159.49

COBRA Rates: (COBRA rates are provided and applicable to Groups with 20 or more employees).

L. These rates are contingent upon:

The employer MUST contribute 100% of the full cost of eligible employees and ALL eligible employees MUST be enrolled. 50% of ALL eligible dependents MUST be enrolled.

II. Definitions

- A. Benefits**
means payment for dental services that have been selected under the Contract.
- B. Child**
means the Subscriber's natural children, stepchildren, adopted children, children by virtue of legal guardianship.
- C. Contract**
means this document, including, if applicable, any appendices, supplements, riders, successor agreements, or renewals now or hereafter issued or executed.
- D. "Contract Fee"**
means the maximum dollar amount, determined in accordance with the terms of the Delta Dental service agreement and policies, rules or schedules as may from time to time be adopted by Delta Dental, that may be paid to Delta Dental Premier Participating Dentists for dental services provided to subscribers and Eligible Dependents.
- E. Co-payment**
means the percentage of benefit payment that the Subscriber must pay for Covered Services.
- F. Covered Services**
means the unique dental services selected for benefits as described in the Declarations Section and subject to the terms and conditions of this Contract.
- G. Deductible**
means the amount an individual and/or a family must pay toward Covered Services before Delta Dental begins paying for services under this Contract. If the Contractor has selected a Deductible, it will be indicated in the Declarations Section.
- H. Delta Dental**
means Delta Dental Plan of Idaho, Inc., a nonprofit dental service corporation providing dental benefits programs.
- I. Delta Dental's Nonparticipating Dentist Fee**
means the maximum amount allowed per procedure for services rendered by a Delta Dental Nonparticipating Dentist.
- J. Delta Dental's Participating Dentist Fee**
means the maximum amount allowed per procedure for services rendered by a Delta Dental Premier Participating Dentist.
- K. Delta Dental Premier**
means Delta Dental's standard fee-for-service dental benefits program.
- L. Dentist**
means a person licensed to practice dentistry in the state or country in which dental services are rendered. An Idaho Dentist is a Dentist who is licensed in Idaho.
- **Delta Dental Premier Participating Dentist** means an Idaho Dentist who has signed an agreement with Delta Dental to participate. The Delta Dental Premier Participating Dentist accepts Delta Dental's payment and the patient's co-payment, if any, as payment in full.
 - **Delta Dental Nonparticipating Dentist** means a Dentist who has not signed an agreement with Delta Dental, or a Delta Dental Participating Plan in another state, to participate in Delta Dental Premier. It is the Subscriber's responsibility to make full payment to the Delta Dental Nonparticipating Dentist.
- M. Denturist**
means a person licensed by the State of Idaho to engage in the practice of denturism.
- N. Dental Hygienist**
means a person licensed to practice dental hygiene who is acting under the supervision and direction of a Dentist.

O. Eligible Dependent

means (a) the Subscriber's legal spouse and (b) any other dependents who meet the criteria for eligibility set forth in the Declarations Section. If dependent coverage has been selected, it will be included in the Declarations Section.

P. Maximum Payment

means the maximum dollar amount Delta Dental will pay in any benefit year or lifetime for covered dental services. The Maximum Payment is specified in the Declarations Section.

Q. Processing Policies

means Delta Dental's policies and guidelines used for predetermination and payment of claims. The Processing Policies may be amended from time to time.

R. Rate

means the amount, per Subscriber and Subscriber classification, the Contractor agrees to pay Delta Dental each month. This amount, or the information necessary to compute it, is specified in the Declarations Section.

S. Submitted Amount

means the fee a Dentist bills to Delta Dental for a specific treatment.

T. Subscriber

means all eligible persons who:

1. are certified as being eligible by the Contractor; and
2. receive compensation from the Contractor; and
3. are members of the group specified in the Declarations Section.

Section III. Eligibility

A. Effective Date of Eligibility

1. **Initial effective date:** All persons enrolled as Subscribers or listed or acknowledged as an Eligible Dependent on the effective date of this Contract are immediately eligible for dental benefits.
2. **After the initial effective date:** For all Subscribers (and their Eligible Dependents, if specified in this Contract) not associated with the Contractor on the initial effective date of this Contract, eligibility for dental benefits will begin on the first day of the month **following** whichever of the following dates is applicable:
 - a. Newly hired or rehired employees: The date for which employment compensation begins plus the number of days specified as the eligibility period in the Declarations Section.
 - b. Spouse: Date of marriage.
 - c. Newborn: Date of birth.
 - d. Legal adoptions or guardianships: Date of placement when the legal petition for adoption or guardianship becomes legally final. Placement means physical placement in the care of the adopting health plan Subscriber. An adopted newborn child placed with the adoptive subscriber more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. An adopted newborn child placed with the adopting Subscriber within sixty (60) days of birth may be added to the adopting Subscriber's plan as a newborn dependent.
 - e. Stepchild: Date that the child's natural parent becomes a dependent eligible for dental benefits.

B. General Eligibility Rules

1. No person will be eligible for dental benefits under this Contract unless the Contractor has either currently enrolled that person as a Subscriber or currently listed or acknowledged that person as an Eligible Dependent.
2. Unless the eligibility requirements stated in the Declarations Section are different, an Eligible Dependent is:
 - a. The legal spouse of the Subscriber; or
 - b. A child of the Subscriber who has not yet reached the end of the calendar month of his or her 26th birthday; and
 - c. A child who is not eligible for other dental coverage if age 25; or
 - d. A child of the Subscriber or the Subscriber's legal spouse if, pursuant to a court decree, the Subscriber or the Subscriber's legal spouse is financially responsible for the medical, health, or dental care of the child; or
 - e. A child of the Subscriber who is totally and permanently disabled by either a physical or mental condition prior to age 26 and is not eligible for other dental coverage. If requested by Delta Dental, the Subscriber shall submit medical reports confirming the child's initial or continuing total disability.
3. No person will be eligible for orthodontic benefits under this Contract unless Class IV benefits are selected in the Declarations Section. No person will be eligible for orthodontic benefits on or after that person's 19th birthday, unless specifically allowed in the Declarations Section.

C. Termination of Eligibility

Eligibility for dental benefits will terminate for all Subscribers and dependents under this Contract at the earlier of:

1. The termination of this Contract; or
2. The last day of the month for which payment has been made if the Contractor fails to make the payments required by this Contract.

Eligibility of an individual Subscriber, and of the Eligible Dependents of that Subscriber, will also terminate if that Subscriber ceases to be a Subscriber as defined by this Contract. An Eligible Dependent also terminates upon failure to meet the eligibility requirements of this Contract. In no event will eligibility for any person covered under this Contract continue beyond the date Delta Dental is advised by the Contractor to terminate that person's eligibility. A person whose eligibility is terminated may not transfer to an individual direct payment contract with Delta Dental or may not continue group coverage under this Contract, unless required by law.

D. Loss of Eligibility During Treatment

1. If a Subscriber and/or Eligible Dependent lose eligibility while receiving dental treatment, only Covered Services received while that individual was eligible under the plan will be payable.
2. Procedures begun before the loss of eligibility may, at Delta Dental's sole option, be covered if the services were completed within a 60-day period measured from the date of the loss of eligibility. In those cases, Delta Dental evaluates those services in progress to determine what portion will be paid by Delta Dental. The balance of the total fee is the Subscriber's responsibility.

E. Continuation Coverage – COBRA

1. The other provisions of this section notwithstanding, eligibility for dental benefits will continue for an individual who is required to be provided with, and elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) provided: Continuation coverage is required to be provided under COBRA.

The Contractor notifies Delta Dental that the individual is eligible for benefits. Coverage shall only be in effect up to the first day of the month after the individual notifies the Contractor that he or she no longer wants coverage from Delta

DELTA DENTAL OF IDAHO

Dental or until the end of the individual's continuation coverage period, whichever occurs first. Further, coverage shall only remain in effect to the last day of the month for which payment has been made to Delta Dental by the Contractor. However, an individual's coverage may be retroactively reinstated for the 60-day COBRA "election" period if the Contractor pays the applicable rate for the period. Delta Dental may, at its sole option and without notice, continue coverage, if legally required.

Coverage will not continue beyond the termination of this Contract.

The individual is responsible for the costs of any service provided after an individual is no longer eligible for continuation coverage under this subsection. Proper and timely notification should be given to Delta Dental by the Contractor to delete the individual's coverage. The monthly rate that the Contractor must pay on behalf of any individual who is provided coverage under this subsection will be based on the COBRA continuation coverage rates then in effect during that month. An individual who continues coverage will be considered to be either a Subscriber or an Eligible Dependent under this Contract and the dental care certificate as long as coverage is provided under this section. Delta Dental does not assume any of the obligations assigned by COBRA to the Contractor or any employer (including the obligation to notify potential beneficiaries of their rights or options under COBRA), and the Contractor agrees that it will perform those obligations in full.

Section IV. Benefits

Types of Dental Benefits

Delta Dental agrees to provide Benefits to Subscribers and Eligible Dependents under the policies and procedures of Delta Dental, including the Processing Policies, and under the terms and conditions of this Contract, including, but not limited to, the following classifications, exclusions, and limitations.

Benefits will be divided into the following classes **unless otherwise specified in the Declarations Section:**

1. Class I Benefits**a. Diagnostic and Preventive Service**

Services and procedures to evaluate existing conditions and/or to prevent dental abnormalities or disease. These services include examinations, prophylaxis, and fluoride treatments.

b. Radiographs

X-rays as required for routine care or as necessary for the diagnosis of a specific condition.

2. Class II Benefits**a. Oral Surgery Services**

Extractions and dental surgery, including pre- and postoperative care.

b. Endodontic Services

The treatment of teeth with diseased or damaged nerves (for example, root canals).

c. Periodontic Services

The treatment of diseases of the gums and supporting structures of the teeth. This includes periodontal maintenance following active therapy (periodontal prophylaxis).

d. Minor Restorative Services

Services to rebuild and repair natural tooth structure when damaged by disease or injury. Minor Restorative services include amalgam (silver) and resin (white) fillings.

e. Emergency Palliative Treatment

Emergency treatment to temporarily relieve pain.



DELTA DENTAL OF IDAHO

3. Class III Benefits

a. Major Restorative Services

Services to rebuild and repair natural tooth structure when damaged by disease or injury. Major Restorative services include crowns when teeth cannot be restored with another filling.

b. Prosthodontic Services

Services and appliances that replace missing natural teeth (such as bridges, partial dentures and complete dentures).

4. Class IV Benefits

a. Orthodontic Services

Services, treatment, and procedures to correct malpositioned teeth.

Section V. Exclusions and Limitations

A. No payment will be made by Delta Dental and all charges for the following services will be the responsibility of the Subscriber:

1. Services for injuries or conditions payable under Workers' Compensation or Employer's Liability laws. Benefits or services that are available from any government agency, political subdivision, community agency, foundation, or similar entity. NOTE: This provision does not apply to any programs provided under Title XIX Social Security Act, i.e., Medicaid.
2. Services for cosmetic surgery, or dentistry for aesthetic reasons.
3. Services or appliances started before an individual became eligible under this Contract.
4. Prescription drugs, pre-medications and/or relative analgesia. General anesthesia and/or intravenous sedation other than for covered oral surgery. Charges for hospitalization, laboratory tests, and examinations and any additional fees charged by the dentist for hospital treatment.
5. Preventive control programs, including home care items.
6. Charges for failure to keep a scheduled visit with the Dentist.
7. Repair, relines, or adjustments of occlusal guards.
8. Charges for completion of forms. A Participating Dentist may not make these charges to a Subscriber or Eligible Dependent.
9. Prosthodontic services (Class III Benefits), unless specified as a Covered Service in the Declarations Section.
10. Orthodontic services (Class IV Benefits), unless specified as a Covered service in the Declarations Section.
11. Lost, missing, or stolen appliances of any type and replacement or repair of orthodontic appliances.
12. Services for which no valid dental need can be demonstrated, that are specialized techniques, or that are experimental in nature as determined by the standards of generally accepted dental practice.
13. Appliances, surgical procedures, and restorations for increasing vertical dimension; for restoring occlusion; for replacing tooth structure loss resulting from attrition, abrasion, or erosion. If orthodontic benefits have been selected under this Contract, this exclusion will not apply to the orthodontic services.
14. Treatment by other than a Dentist, except for services performed by a licensed dental hygienist or denturist within the scope of his or her license.
15. Those Benefits excluded by the policies and procedures of Delta Dental, including the Processing Policies.

16. Services or supplies for which no charge is made, for which the patient is not legally obligated to pay or for which no charge would be made in the absence of Delta Dental coverage.
 17. Services or supplies received as a result of defect, or injury due to an act of war, declared or undeclared.
 18. Services that are covered under a hospital, surgical/medical, or prescription drug program.
 19. Appliances, restorations, or services for the diagnosis or treatment of disturbances of the temporomandibular joint (TMJ).
 20. Myofunctional Therapy.
 21. Delta Dental is not obligated to pay claims received more than twelve (12) months after the date of rendition of the service.
- B. Services that are not within the classes of benefits that have been selected and are not in this Contract. The Benefits for the following services are limited as follows unless specified in the Declarations Section. All time limitations are measured from the last date of service in any dental plan or paid individuals.
1. Prophylaxis, including periodontal prophylaxis, and oral exams are payable once in a six (6) month period.
 2. Bitewing X-rays are payable once in any period of twelve (12) consecutive months. Full mouth X-rays (which include bitewing X-rays) are payable once in any five (5)-year period. A panoramic X-ray (including bitewings) is considered a full mouth X-ray.
 3. Amalgam and resin restorations are payable once within a twenty-four (24) month period regardless of the number or combination of restorations placed on a surface.
 4. Cast restorations (including jackets, crowns, onlays) on the same tooth are payable once in any seven (7) year period.
 5. Porcelain, porcelain substrate, and cast restorations are not payable for children less than sixteen (16) years of age.
 6. Optional treatment: If the Subscriber or Eligible Dependent selects a more expensive dental service than is customarily provided or for which Delta Dental determines that a valid dental need is not shown, Delta Dental may make an allowance based on the fee for the customarily provided service or to provide service for the necessary Covered Service. The Subscriber is responsible for the difference in cost.
 7. Benefits for root planing are payable once in any two (2) year period. Periodontal surgery is payable once in any three (3) year period.
 8. Prosthodontic (Class III) benefit limitations:
 - a. One (1) complete upper and one (1) complete lower denture are benefits once in any seven (7) year period for any individual.
 - b. A partial denture, fixed bridge, or for any individual can be covered once in any seven (7) year period.
 - c. Fixed bridges and removable cast partials are not payable for children less than sixteen (16) years of age.
 - d. A relines or the complete replacement of denture base material is limited to once in any two (2) year period per appliance.
 9. Preventive fluoride treatments are payable for children less than nineteen (19) years of age, once in any twelve (12) consecutive months, unless otherwise specified in the Declarations Section.
 10. Orthodontic (Class IV) benefit limitations; if Orthodontic services are a covered benefit listed in the Declarations Section:
 - a. Orthodontic benefits are payable for children less than nineteen (19) years of age of a Subscriber or Eligible Dependent, unless otherwise specified in the Declarations Section.

- b. If the treatment plan is terminated before completion of the case for any reason, Delta Dental's obligation will cease with payment for services rendered up to the date of termination.
 - c. The Dentist may terminate treatment, with written notification to Delta Dental and to the patient, for lack of patient interest and cooperation. In those cases, Delta Dental's obligation for payment of benefits ends on the last day of the month in which the patient was last treated.
 - d. Any charge for the replacement or repair of an orthodontic appliance furnished under any Delta Dental program will not be paid by Delta Dental and will be the responsibility of the patient.
 - e. Payment is based on the signed Financial Agreement and/or treatment length. Initial down payment is paid on banding date followed by quarterly payment for ongoing treatment.
11. Delta Dental's obligation for payment for covered services ends on the last day of the month in which coverage is terminated under this Contract, unless otherwise specified in the Declarations Section.
12. When services in progress are interrupted and completed later by another Dentist, Delta Dental will review the claim and determine the amount of payment, if any, to each Dentist.
13. Maximum Payment:
- a. The maximum benefit payable in any one (1) benefit year will be limited to the amount specified in the Declarations Section of this Contract.
 - b. Delta Dental's payment for orthodontic (Class IV) benefits will be limited to the lifetime maximum specified in the Declarations Section of this Contract.
14. If a plan Deductible amount is specified in the Declarations Section, Delta Dental will not be obligated to pay for, in whole or in part, any services until the Deductible amount is met.
15. Rollover Maximum Benefit Limitations; if Rollover Maximum Benefit is a covered benefit listed in the Declarations Section:
- a. If total paid claims do not exceed the annual threshold amount, the rollover amount will automatically *rollover* each year until the maximum benefit amount is reached.
 - b. To be eligible for the rollover benefit, enrollees must receive a preventive service (*such as a dental cleaning or dental exam*) within the calendar year.
 - c. To receive the maximum rollover benefit on a Delta Dental Premier plan, enrollees must obtain ALL dental services from a Delta Dental Premier network dentist. To receive the maximum rollover benefit on a Delta Dental PPO plan, enrollees must obtain ALL dental services from a PPO network dentist.
 - d. If enrollees receive care from a non-participating dentist at any time during the calendar year, they will not accrue the rollover benefit for that year.
 - e. The maximum rollover amount is available to enrollees each calendar year. Annual maximum dollars are used first. If paid dental claims exceed the annual maximum, the remaining amount will be deducted from the accrued rollover amount.
 - f. The maximum rollover amount does not apply to any services with a lifetime maximum (such as orthodontics).
 - g. There is no time limit for using the accrued maximum rollover amount as long as enrollees have continuous coverage and their employer continues to offer a Rollover Maximum Benefit dental plan.
 - h. Enrollees will lose their rollover balance if they disenroll or have a break in coverage.
16. Processing Policies may limit treatment. Processing Policies are available upon request.

Section VI. Agreements

A. Delta Dental Agrees:

1. To make no payments from the money received from the Contractor for any services rendered to a person who is not eligible for dental benefits as defined in this Contract.
2. To endeavor to enlist Dentists to become Participating Dentists in sufficient number to ensure an adequate choice of Dentists. Nothing shall require Delta Dental to provide a Dentist to a Subscriber or to an Eligible Dependent.
3. To contractually require each Participating Dentist to render all dental treatment provided under this Contract according to the standards of the dental profession in the community in which the dental procedures are rendered.
4. To make payments in the following manner for dental services provided to Subscribers and Eligible Dependents:
 - a. If the Dentist is a Participating Dentist, Delta Dental will base payment on the lesser of the Submitted Amount or the Contract Fee. Delta Dental will send payment to the Participating Dentist and the Subscriber will be responsible for any Co-payment and/or any non-covered services.
 - b. If the Dentist is a Nonparticipating Delta Dental Dentist, Delta Dental will base payment on the lesser of the Submitted Amount or Delta Dental's Nonparticipating Dentist Fee. It is the Subscriber's responsibility to make full payment to the Nonparticipating Dentist. For dental services rendered by an out-of-state Dentist, Delta Dental will base payment on the lesser of the Submitted Amount or the Contract Fee in that area, if the out-of-state Dentist is a Participating Dentist with a Delta Dental Plan in the state in which the service is rendered. If the out-of-state dentist is not a participating dentist, payment will be made as provided in subparagraph 4(b) of this Section.

B. Contractor Agrees:

1. To pay Delta Dental the monthly rate specified in the Declarations Section of this Contract, in advance, unless otherwise specified in the Declarations Section. Delta Dental may, at its sole option, send notification to the Contractor of an adjustment in rates, benefits, or co-payments to correct potential adverse group experience resulting from the following:
 - a. Information provided upon enrollment proves to be in error; or
 - b. Terms and provisions of the Contract are violated; or
 - c. Initial size or composition of the group changes to the extent it adversely affects the rates. If an adjustment is warranted, Delta Dental will provide the Contractor written notice 30 days prior to implementing any adjustment. If the Contractor refuses to accept this adjustment, Delta Dental may, in its sole discretion, implement the adjustment or an alternative adjustment as stated in Section IX of this contract, or cancel this Contract.
2. To enroll as Subscribers all eligible employees of the Contractor and to list, if covered, all Eligible Dependents of those employees, to the extent required under the Contract. The Contractor will provide Delta Dental an accurate monthly statement of the total number and names of all Subscribers and, if applicable, all Eligible Dependents.
3. To permit Delta Dental, by its auditors or other authorized representatives, on reasonable advance written notice, to inspect the Contractor's records to verify the accuracy of lists of Subscribers and Eligible Dependents submitted to Delta Dental. Clerical errors or delays in keeping or relaying data will not invalidate eligibility that would otherwise be validly in force or continue eligibility that would otherwise be validly terminated, if, after discovery of the errors or delays, an equitable adjustment of the Contractor's payments can be made in a reasonable period of time.
4. To provide each Subscriber with a standard certificate of the Benefits provided under this Contract. The certificate will be provided by Delta Dental. Customized benefit literature can be provided for an additional cost.

To collect and pay to Delta Dental any amounts that the Contractor's employees are required to pay to Delta Dental under this Contract or any written employment contracts. Any amounts not collected will be the responsibility of the Contractor.

Section VII. General Provisions

- A. Dentists providing services are independent contractors, and neither the Contractor nor Delta Dental will be liable for any act or omission of any Dentist, his or her employees or agents or any person providing dental or other professional services under this Contract.
- B. All Dentists, Subscribers, and Eligible Dependents, by performing or receiving services under this Contract, are bound by all its terms.
- C. Delta Dental will not honor and no payment will be made for services if a claim for those services has not been received by Delta Dental within twelve (12) months from the date the services for the procedure were completed.
- D. No materials will be published or distributed by the Contractor concerning this Contract until the materials are first approved by Delta Dental.
- E. No action on a claim arising out of or related to this Contract will be brought until thirty (30) days after notice of the claim has been given to Delta Dental, nor will any action be brought more than three (3) years after the claim first arose.
- F. Delta Dental and Contractor agree to defend, indemnify and hold harmless the other and its directors, officers and employees (who are acting in the course of their employment, but not as claimants) from any loss, cost, or expense (including reasonable attorney fees and court costs) resulting from or arising out of or in connection with its breach of this Contract or any negligent act or omission of any of its directors, officers or employees.
- G. While the Subscriber and/or Eligible Dependent are covered by Delta Dental, the Subscriber and/or Eligible Dependent agree to provide Delta Dental with any information it needs to process the claims and administer the Benefits. This includes allowing Delta Dental to have access to his or her dental records.
- H. Delta Dental will establish a procedure for resolving all questions raised by a Dentist, a Contractor, a Subscriber, or an Eligible Dependent in regard to claims for dental benefits allowed or rejected under the terms of this Contract. This procedure will be used both for the initial determination of those questions and for the resolution of appeals made on the basis of those initial determinations. All determinations made according to this procedure will be final and binding on the Dentist, the Contractor, the Subscriber, and the Eligible Dependent.
- I. All of the Benefits under this Contract, if applicable, will be subject to a coordination of benefits provision that is designed to provide maximum coverage, but not to exceed 100 percent of the total fee for a given treatment.

1. General

- a. This coordination of benefits ("COB") provision applies to This Plan when an employee or the employee's covered dependent has health care coverage under more than one plan. "Plan" and "This Plan" are defined below.
 - (1) If this COB provision applies, you should look first at the order of benefit determination rules. Those rules determine whether the benefits of This Plan are determined before or after those of another plan. The benefits of This Plan: shall not be reduced when, under the order of benefit determination rules, This Plan determines its benefits before another plan; but
 - (2) May be reduced when, under the order of benefits determination rules, another plan determines its benefits first. The above reduction is described in "Effect on the Benefits of This Plan."

2. Definitions:

- a. A Plan is any of the following that provides benefits or services for medical or dental care or treatment. If separate contracts are used to provide coordinated coverage for members of a group, the separate contracts are considered parts of the same plan and there is no COB among those separate contracts.

DELTA DENTAL OF IDAHO

(1) Plan includes: group and non-group insurance contracts, health maintenance organization (HMO) contracts, closed panel plans or other forms of group or group type coverage (whether insured or uninsured); medical care components of long-term care contracts, such as skilled nursing care; medical benefits under group or individual automobile contracts; and Medicare or any other federal governmental plan, as permitted by law.

(2) Plan does not include: hospital indemnity coverage or other fixed indemnity coverage; accident only coverage; specified disease or specified accident coverage; limited benefit health coverage, as defined by state law; school accident type coverage; benefits for non-medical components of long-term care policies; Medicare supplement policies; Medicare or any other federal governmental plans, unless permitted by law. Each contract for coverage under (1) or (2) is a separate Plan. If a plan has two parts and COB rules apply only to one of the two, each of the parts is treated as a separate Plan.

Each contract or other arrangement for coverage under 2(a) and (b) is a separate plan. If an arrangement has two parts and COB rules apply only to one of the two, each part is a separate plan.

- b. "This Plan" is the part of this group contract that provides benefits for health care expenses.
- c. "Primary Plan/Secondary Plan:" the order of benefit determination rules state whether This Plan is a Primary Plan or Secondary Plan as to another plan covering the person. When This Plan is a Primary Plan, its benefits are determined before those of the other plan and without considering the other plan's benefits. When This Plan is a Secondary Plan, its benefits are determined after those of the other plan and may be reduced because of the other plan's benefits. When there are more than two plans covering the person, This Plan may be a Primary Plan as to one or more other plans and may be a Secondary Plan as to a different plan or plans.
- d. "Allowable Expense" means a necessary, reasonable, and customary item of expense for health care when the item of expense is covered by this plan. However, This Plan is not required to pay for an item, service, or benefit which is not a part of This Plan's contract. When a plan provides benefits in the form of services, the reasonable cash value of each service rendered will be considered both an allowable expense and benefit paid.

3. Order of Benefit Determination Rules

- a. When there is a basis for a claim under This Plan and another plan, This Plan is a Secondary Plan whose benefits are determined after those of the other plan, unless:
 - (1) The other plan has rules coordinating its benefits with those of This Plan; and
 - (2) Both those rules and this plan's rules, in subsection (b) below, require that this plan's benefits be determined before those of the other plan.
- b. This Plan determines its order of benefits using the first of the following rules which applies:
 - (1) The benefits of the plan which covers the person as an employee, member, insured, or subscriber (that is, other than as a dependent) are determined before those of the plan which covers the person as a dependent; except that: if the person is also a Medicare beneficiary, and as a result of the rule established by Title XVIII of the Social Security Act and implementing regulations, Medicare is
 - a. Secondary to the plan covering the person as a dependent and
 - b. Primary to the plan covering the person as other than a dependent (for example, a retired employee).
 - (2) Benefits for a dependent child whose parents are not separated or divorced shall be determined as follows:
 - a. The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year; but
 - b. If both parents have the same birthday, the benefits of the plan which covered one parent longer are determined before those of the plan which has covered the other parent for a shorter period of time.

However, if the other plan does not have the rules described in (a) above, but instead has a rule based upon the gender of the parent, and if, as a result, the plans do not agree on the order of benefits, the rule in the other plan will determine the order of benefits.

- (3) Benefits for a dependent child whose parents are divorced or legally separated shall be determined as follows. To the extent the plan has been notified by receiving a copy of the court decree:
 - a. If the specific terms of the court decree state that one of the parents is responsible for the health care expenses of the child, the benefits of the plan of that parent are determined first. The plan of the other parent shall be the Secondary Plan.
 - b. If the specific terms of the court decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plans covering the child shall be subject to the order of benefit determination contained in subdivision b (2) of this section.

If neither subparagraph (a) nor (b) applies, the order of benefits shall be determined in the following order:

- (a) The plan of the parent with primary legal custody of the child;
 - (b) The plan of the spouse of the parent with the primary legal custody of the child;
 - (c) The plan of the parent not having primary legal custody of the child; and
 - (d) The plan of the spouse of the parent not having primary legal custody of the child.
- (4) The benefits of a plan which covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before the benefits of a plan which covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this paragraph shall be ignored.
 - (5) Continuation Coverage. If a person whose coverage is provided under a right of continuation pursuant to federal law (i.e., COBRA) or state law also is covered under another plan, the benefits of the plan covering the person as employee, member, or subscriber (or that person's dependent) shall be determined before the benefits under the continuation coverage. If the other plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this paragraph shall be ignored.
 - (6) Longer/shorter length of coverage. If none of the above rules determines the order of benefits, the benefits of the plan which covered an employee, member, or subscriber longer are determined before those of the plan which covered that person for the shorter term.

4. Effect on the Benefits of This Plan

- a. This section applies when, in accordance with section "Order of Benefit Determines Rules," This Plan is a Secondary Plan as to one or more other plans. In that event, the benefits of This Plan may be reduced under this section. Such other plan or plans are referred to as "the other plans" in b below.
- b. Reduction in This Plan's benefits. The benefits of This Plan will be reduced to the extent that the sum of:
 - (1) The benefits that would be payable for the allowable expense under This Plan in the absence of this COB provision; and
 - The benefits that would be payable for the allowable expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made, exceeds those allowable expenses.

5. Right to Receive and Release Needed Information

Certain facts are needed to apply these COB rules. Delta Dental has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. Delta Dental need not tell or get the consent of,



any person to do this. Each person claiming benefits under This Plan must give Delta Dental any facts it needs to pay the claim.

6. Facility of Payment

A payment made under another plan may include an amount which should have been paid under This Plan. If it does, Delta Dental may pay that amount to the organization which made that payment. That amount will then be treated as though it were a benefit paid under This Plan. Delta Dental will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

7. Right of Recovery

If the amount of the payments made by Delta Dental is more than it should have paid under this COB provision, it may recover the excess from one or more of:

- a. The persons it has paid or for whom it has paid;
- b. Another plan; or
- c. The provider of service.

The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

Section VIII. Health Insurance Portability and Accountability (HIPAA)

As required by the administrative simplification mandates of HIPAA, codified at the Social Security Act (SSA) §§ 1171-1179 this Section provides the protection of protected health information (PHI) to subscribers.

- A. **HIPAA Final Standard Transactions and Code Set Rule.** The final standard transactions and code set rule promulgated under HIPAA requires health care providers and health plans to use new national standards for certain electronic transfers of administrative and financial health care transactions. Delta Dental and the Contractor agree that by the final standard transactions and code set rule compliance date, each, to the extent required, will comply with the final standard transactions and code set rule. Notwithstanding any provision of this Contract or any arrangements contemplated by this Agreement to the contrary, the failure of Delta Dental or the Contractor to comply with the final standard transactions and code set rule by the final standard transactions and code set rule compliance date shall give the other party the right to terminate this Agreement following thirty (30) days' prior written notice. Public Law 107 and 105 provides for a one-year extension of the date for complying with the final standard transactions and code set rule (to October 16, 2003) for any covered entity that submits to the Secretary of Health and Human Services a plan of how the entity will come into compliance with the requirements by October 16, 2003. Delta Dental and the Contractor each acknowledge and agree that either party may take advantage of such extension.
- B. **HIPAA Final Privacy Rule.** The final privacy rule promulgated under HIPAA imposes certain privacy requirements on the use and disclosure of "protected health information" by "covered entities" (as defined in the final privacy rule), including a requirement that certain provisions must be included in contracts with "business associates" (as defined in the final privacy rule). Contractor and Delta Dental acknowledge and agree that they have, or will, execute the Business Associate Agreement to satisfy the final privacy rule's requirement that they enter into a business associate agreement.
- C. **Assignment and Delegation.** Contractor acknowledges and agrees that certain services which Delta Dental is obligated to perform pursuant to this Contract may be delegated by Delta Dental, in Delta Dental's sole discretion, and performed by an affiliate of Delta Dental; provided, however, that Delta Dental agrees that such delegation will not relieve Delta Dental of any liability for its obligations under this Contract. In the event that Delta Dental delegates any of its obligations hereunder to an affiliate, such affiliate shall be required to execute a Business Associate Agreement so as to comply with the HIPAA final privacy rule.



Section IX. Terms and Termination

This Contract shall remain in full force and effect for the initial term and any renewal term of this Contract as determined in accordance with this contract. Delta Dental shall have the option of terminating this Contract if:

- A. The Contractor fails for more than 30 days to make a required payment; or
- B. Delta Dental elects to cancel pursuant to Section VI B 1 of this Contract; or
- C. The Contractor fails to furnish Delta Dental with accurate enrollment data pursuant to Section VI B 2; or
- D. The Contractor permits voluntary enrollment of Subscribers and/or their dependents when not permitted pursuant to this Contract; or
- E. If the group enrollment changes to less than three enrolled subscribers, Delta Dental may terminate the group contract effective the first of the month following less than three enrolled subscribers.
- F. If Contractor elects to cancel this Contract during the original term or any renewal term thereof, Contractor shall:
 - 1. Pay to Delta Dental the dollar amount of benefits paid by Delta Dental, or which benefits Delta Dental is obligated to pay pursuant to this Contract, in excess of total rate payments
 - a. made or required to be paid by Contractor to Delta Dental pursuant to the original contract term, through the effective date of cancellation, or,
 - b. in the event the cancellation occurs during a renewal period of the original or subsequent renewals of a renewed contract, those amounts in excess of the total rate payments made or required to be made by Contractor during the past rolling twelve month period immediately prior to the effective date of cancellation.
 - c. In addition thereto, Contractor shall pay an amount equal to twelve percent (12%) of the amounts required to be paid by Contractor pursuant to subparagraphs (1) (a) or (b) hereof, as liquidated damages, to compensate Delta Dental for damages and costs resulting from the contract termination prior to the contract expiration date.
 - 2. Contractor shall be liable for all rate payments owing to Delta Dental pursuant to this Contract, or any renewal thereof, that remain unpaid for any portion of the contract period up to and including the date of cancellation. For the purposes of Section IX (F), a failure by the Contractor to make a required rate payment pursuant to this Contract for more than sixty (60) consecutive days past the due date as set forth in this Contract shall be deemed an election by the Contractor to cancel this Contract on the sixty-first (61st) day following the due date of such required rate payment.
 - 3. Contractor shall also pay to Delta Dental its costs of collection of the amounts set forth herein, including reasonable court costs and attorney fees.
- G. The Contractor refuses to allow Delta Dental (by Delta Dental auditors or other authorized representatives) to inspect the Contractor's records to verify the accuracy of the eligible Subscriber and dependent list; or
- H. The Contractor has otherwise breached this Contract.
- I. In the event the Contract is terminated for any of the preceding reasons, except for cancellation by the Contractor as set forth in subparagraph E hereof, during the original term or during a renewal term of the Contract, the Contractor shall be liable to Delta Dental for the rate payments through the date of termination. The provisions of subparagraph E shall govern Contractor's obligations in the event of cancellation by the Contractor.
- J. Delta Dental may from time to time provide additional services or benefits by rider or other notice. Those additional services or benefits may be withdrawn at any time after notice given by Delta Dental.



DELTA DENTAL OF IDAHO

- K. Any notice required or permitted to be given by Delta Dental will be considered given if in writing and personally delivered, emailed, or if in writing and deposited in the United States mail with postage prepaid, addressed to the Contractor, a Dentist, or Subscriber at the last address of record. This notice will be considered given when personally delivered, emailed or mailed.
- L. No agent has authority to change any part of this Contract. No changes to this Contract will be valid unless approved in writing by Delta Dental.
- M. If Delta Dental pays a claim for which another person or company is liable, Delta Dental has the right to recover its payment from the other person or company.
- N. The right of a Subscriber or Eligible Dependent to Covered Services pursuant to this agreement may not be transferred or assigned to other persons.

Section X. Renewal of Contract

Delta Dental shall, not less than forty-five (45) days prior to any renewal date of this Contract, notify Contractor of any change in rates to be effective during the renewal term of this Contract. Contractor shall, not less than thirty (30) days prior to any renewal date, notify Delta Dental if Contractor elects not to renew said contract for a period of time equal to the Original Contract Term or equal to the term of the immediately preceding renewal term thereof. In the event that Contractor does not notify Delta Dental of its election not to renew this Contract, this Contract shall be deemed to have been renewed for a term equal to the immediately preceding Contract term and all terms and conditions of this Contract shall remain in full force and effect for the renewal term as specified in this paragraph. Provided however, the rates charged for the benefits provided hereunder shall be as set forth in Delta Dental's notice of change in rates, as provided herein, during the renewal term. All notices required pursuant to this paragraph shall be in writing and delivered to the respective party not later than the times set forth herein for giving said notice.

ACCEPTED:

ACCEPTED: (CONTRACTOR)

DELTA DENTAL OF IDAHO, INC.

By:

President and Chief Executive Officer

Date: November 21, 2011

By:

Print Name:

Company:

Date: