
PUBLIC NOTICE

Bloss Memorial Healthcare District, A Public Entity • 3605 Hospital Road, • Atwater, California 95301 •
(209) 381-2000 x 7002 • fax: (209) 722-9020

Date: April 5, 2019

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Bloss Memorial Healthcare District will a **Special Board of Directors** meeting on Tuesday, April 9, 2019 at 11:00 am in the Board Room at 3605 Hospital Road, Atwater, CA 95301.

I, Fily Cale, posted a copy of the agenda of the Board of Directors of Bloss Memorial Healthcare District, said time being at least 24 hours in advance of the meeting of the Board of Directors.

BLOSS MEMORIAL HEALTHCARE DISTRICT, A Public Entity (BMHD)
SPECIAL BOARD OF DIRECTORS MEETING
Board Room
3605 Hospital Road
Atwater, CA 95301
Tuesday, April 9, 2019
11:00 am

AGENDA FOR PUBLIC SESSION

I. CALL TO ORDER

II. ROLL CALL

ACTION

EXHIBIT

III. APPROVAL OF AGENDA

*

IV. PUBLIC COMMENTS

Comments can be made concerning any matter within the Board's jurisdiction; but if the matter is not on the agenda, there will be no Board discussion of the issue. Anyone wishing to address the Board on any issue, please stand and approach the microphone.

V. NEW BUSINESS

- a. Ratification of Administrative Services Agreement between * 1
Dental Surgery Centers of America and Bloss Memorial
Healthcare District

VI. AGENDA FOR CLOSED SESSION

Closed Session Items Pursuant to the Brown Act will be:

Closed Session Items Pursuant the Brown Act will be:

Section 54954.5(h) Report Involving Trade Secrets – Regarding New Services.

Estimated date of public disclosure will be in 2019.

Section 54954.5 (c); 54956.9 Conference with Legal Counsel for Initiation of Litigation.

Section 1461 of the Health and Safety Code – Quality Management.

Section 54957 Personnel Actions.

VII. NEXT MEETING DATE

VIII. ADJOURNMENT

Assistance for those with disabilities: If you have a disability and need accommodation to participate in the meeting, please call Fily Cale at (209) 724-4102 or (209) 381-2000 extension 7000 for assistance so that any necessary arrangements may be made.

Any written materials relating to an agenda item to be discussed in open session of a regular meeting that is distributed within the 72 hours prior to the meeting is available for public inspection at the time the record is distributed to all, or a majority of all, members of the Board. These documents are available from the Executive Assistant in administration at 3605 Hospital Road, Atwater, California 95301.

ADMINISTRATIVE SERVICES AGREEMENT

THIS ADMINISTRATIVE SERVICES AGREEMENT (the “**Agreement**”) is made and entered into and effective as of June 1, 2018 (the “**Effective Date**”), by and between DENTAL SURGERY CENTERS OF AMERICA, a California corporation (“**Company**”), and BLOSS MEMORIAL HEALTHCARE DISTRICT, a California healthcare district (the “**Bloss**”).

WITNESSETH:

WHEREAS, Company is an administrative services corporation which provides, directly and through subcontracts, administrative, regulatory compliance, support, employee benefits administration, dental coverage assistance, and other non-clinical services and intangible property rights to healthcare providers for use in their professional practices at various locations (including, without limitation, the Administrative Services (as defined below);

WHEREAS, in connection with the sale of the ambulatory surgical centers located at 1523 E. March Ln Ste A, Stockton, California 95210, and 3605 Hospital Rd. Suite H, Atwater, California 95301, (collectively, the “**Location**”) Bloss continue’s to provide professional dental services on a temporary basis to Company;

WHEREAS, Bloss desires to render professional services to Bloss’s patients at Location and to obtain certain Administrative Services (as hereinafter defined) from Company needed to support the Company; and

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and promises hereinafter contained, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by each party hereto to the other, and intending to be legally bound hereby, the parties represent, warrant, promise, covenant and agree as follows:

1. **Engagement and Term of Agreement.** Bloss hereby retains Company for the purpose of rendering administrative services and support, and all other administrative support needed for operation and in the best interest of Bloss on the basis hereafter set forth.

2. **Term of Agreement.** This Agreement shall commence on the Effective Date and shall continue in full force until another professional group is contracted to continue providing professional services, unless earlier terminated in accordance with **Section 13** here.

3. **Administrative Services.** Bloss hereby engages exclusively the Company to administer all non-professional aspects of Bloss’s business affairs related to the provision of services to the surgical centers, except as otherwise prohibited by applicable law or regulations, or limited or restricted by this Agreement. In the absence of mutually agreed upon policies of Bloss and Company, Company shall exercise reasonable judgment in its administrative activities. To the extent that any act or service required to be performed by Company under this Agreement shall be construed, as evidenced in writing by a court of competent jurisdiction, to constitute or likely constitute the practice of dentistry, the requirements for or right of Company to perform

such act or service shall be automatically suspended; provided that the parties shall negotiate in good faith to amend this Agreement with respect to such suspended provisions. Without in any manner limiting the foregoing, Company shall, in accordance with the terms and conditions hereof, have the power and authority to take any and all actions reasonably necessary or advisable to conduct the non-clinical business affairs of Bloss, including, without limitation, the responsibility and commensurate authority for the following activities upon Bloss's behalf consistent with the approved, then current Budget (as "Budget" is defined below in Section 4(z)) and all other applicable terms and conditions of this Agreement (collectively, the "**Administrative Services**").

(a) The supervision of the general day-to-day non-clinical operations of Bloss related to the provision of services to the surgical centers;

(b) Shall assist Bloss with its recruitment of dentists and other health professionals related to the practice of dentistry, consistent with the Staffing Plan, as defined and discussed further in Section 9(c);

(c) Advice to Bloss's Board of Directors with regard to all matters that come before Bloss's Board of Directors regarding the provision of professional services at the surgical centers, provided however that all decisions with respect to dental personnel and professional dental services shall be made by Bloss;

(d) The issuance of bills in Bloss's names and using Bloss's billing numbers to bill insurance companies, other third party payers, and patients for services and items furnished by Bloss or their employees or contractors, and the collection of accounts and monies owed to Bloss arising out of services and items so furnished, provided however that Bloss shall be responsible for all decisions that affect the amount of reimbursement;

(e) The payment of payroll, trade accounts, taxes and all other obligations of Bloss arising out of professional services performed by Bloss or its employees or contractors;

(f) The administration of systems for the development, preparation and custody of records, including patient and employee records, relating to the business and affairs of Bloss;

(g) The maintenance of bank accounts in the name of Bloss into which all revenues of Bloss for services and items rendered shall be deposited;

(h) Assistance with marketing, public relations and advertisement of Bloss's professional practice, as determined to be necessary and desirable by Bloss;

(i) The preparation, in consultation with Bloss, of Bloss's operating cash flow for the fiscal year, as set forth further in Section 4(w), below;

(j) Company shall negotiate all payor contracts that are determined by mutual agreement of Company and Bloss from time to time to be reasonably necessary and appropriate for the operation of Bloss, including contracts with insurance companies, preferred provider

organizations and health maintenance organizations, and other capitated and non-capitated agreements. Company and Bloss shall periodically, but no less often than annually, agree upon guidelines for payor contracts for Bloss, which guidelines shall include parameters which the parties deem appropriate (as in effect, from time to time, the “**Guidelines**”). Company shall use reasonable efforts to negotiate payor contracts that are consistent with the Guidelines. The prior approval of Bloss shall be required for any payor contract that is inconsistent with the Guidelines and all payor contracts shall remain subject to ultimate approval by Bloss.

(k) Assistance in compliance with all federal, state, county, local and third-party payer laws, regulations, rules, procedures and requirements, including but not limited to development and implementation of a comprehensive legal compliance plan that would be adopted by Bloss, provision of a compliance officer, and management of and response to any internal or external compliance audits (it being recognized that all costs associated with developing the compliance plan and the policies and procedures that will be part of the plan, including the retention of the compliance officer, will be borne by the Company);

(l) Assistance with facilitation of the services of one or more dentists duly licensed to practice at the Location(s) where Bloss practices on an interim basis for coverage of the Location(s) during absences of Bloss’s dentists (it being recognized that the retention of such dentists shall be within the sole discretion of Bloss);

(m) Assistance with credentialing, hiring and retaining dentists and other professional staff employed or contracted by Bloss (it being recognized that the retention of such professionals shall be within the sole discretion of Bloss);

(n) The commencement and management of any litigation on behalf of and in the name of Bloss, whether as a plaintiff, defendant or any other capacity subject to the supervision and control of Bloss;

(o) Assisting in the selection and engagement and management of all legal, financial, accounting or other advisors on behalf of Bloss;

(p) Providing consultation and advice on professional compensation programs and structures subject to Bloss’s ultimate discretion;

(q) Assisting and managing where applicable care coordination and management activities in connection with Bloss’s agreements with third party payers;

(r) Development, management and maintenance of information technology systems for use by Bloss, including but not limited to the development and implementation of a comprehensive electronic records system for use by Bloss; and

(s) Development in conjunction and in consultation with a qualified representative designated by Bloss of a preliminary budget for all Company expenses necessary to provide the Administrative Services and all Bloss expenses needed and desired for operation

of its dental practice. Upon obtaining approval, the preliminary budget shall become the final budget for the succeeding calendar year (the "Budget").

4. Bank Accounts.

(a) Bank Accounts. All funds collected by Company for the accounts of Bloss with respect to reimbursement received from the delivery of professional services including, without limitation, Medicare, Medicaid, CHAMPUS, etc., shall be deposited in a separate bank account(s) for and in the name of and sole control of Bloss (the "Account").

5. Administrative Services Not the Practice of Dentistry. The parties hereto acknowledge that Company is not authorized or qualified to engage in any activity that may be construed or deemed to constitute the practice of dentistry or any other clinical field of health care. Therefore, and notwithstanding any provision or implication to the contrary herein, Company shall not engage in any such activity that may be construed or deemed to constitute the practice of dentistry or any other clinical field of health care, nor shall Company in any way or manner supervise or determine the methods or standards of the dental care provided by Bloss, specifically, and without in any manner limiting the foregoing:

(a) Bloss shall be solely responsible for the care and treatment of its patients, and with respect thereto, shall at all times be solely responsible for supervising all personnel performing professional services as its employees or under its orders or on its behalf, including any such persons whose services are made available to Bloss under this Agreement (all such persons performing professional services collectively referred to herein as the "Professionals");

(b) Nothing in this Agreement shall be construed to interfere with the Professionals' and Bloss's exercise of his/her/its independent professional judgment regarding the diagnosis or treatment of any dental disease, disorder, or physical condition;

(c) Notwithstanding anything to the contrary in this Agreement, purchase and provision of all medical equipment and medical supplies used in Bloss's (and Professionals') professional practice and services shall be subject approval by Bloss;

(d) Company shall not determine if or when a patient shall be admitted for care to Bloss and/or discharged from care by Bloss, and Company shall in no way determine or set the methods, standards or conduct of the practice of dentistry by Bloss or any of the Professionals;

(e) All bills which may be rendered on behalf of Bloss by Company shall be on Bloss's letterhead and shall be restricted to professional services and items rendered by Bloss or the Professionals. All payments received in connection with such bills shall be promptly deposited, in full, to the Account. Bloss shall be solely responsible for determining all charges and fees for its professional services and for the services of the Professionals;

(f) Any general reception, answering or telephone switchboard services which may be made available to Bloss by Company shall be restricted to inquiries made in the

name of Bloss or the Professionals, and to telephone calls made pursuant to a separate telephone number in the name of Bloss; and

(g) Company may advise and support Bloss with respect to marketing and promotional matters related to Bloss. The parties agree that all marketing shall be undertaken in a professional manner and shall be in compliance with applicable laws and regulations to advertising pertaining to the dental profession, and shall be subject to review, oversight and approval by Bloss.

6. **Access to Books and Records; Patient Files.** Bloss shall give to Company, or its designees, full access to and custody, records and patient files in order to enable Company to perform its duties hereunder. Company shall maintain all files and records relating to the operation of Bloss consistent with ordinary records management practices. Bloss shall have access during reasonable business hours to Bloss's business, financial and other records (including, but not limited to, billing and collection records) kept by Company on behalf of Bloss by virtue of this Agreement. To the extent required by 42 U.S.C. § 1395x(v)(1)(I) and the Medicare regulations promulgated thereunder, as may be amended, if such statute and regulations are applicable to Bloss and/or Company, Company shall make available to the Secretary of Health and Human Services or the Comptroller General of the United States, or their duly authorized representatives, upon request, any contracts, books, documents or records necessary to verify the nature and extent of the cost of services furnished to Bloss under this Agreement; provided, however, that access under this provision shall apply only to those contracts, books, documents or records that are within the scope of and are legally requested under the authority of said statutory or regulatory provisions. Such access shall be available for a period of the greater of (i) four (4) years after the furnishing of such services, or (ii) the applicable statute of limitations under said statutory or regulatory provisions.

7. **Allocation of Responsibility.** The parties acknowledge that the surgical centers, owned by Company, are the provider of technical ambulatory surgery center services at the Location(s). In this capacity, Company is the provider of the physical space, medical supplies, medical records system, information technology services and other items that comprise the technical component of the services provided there.

8. **Compensation.** As compensation for the Administrative Services to be rendered by Company hereunder as well as the technical services provided under Section 8, Company shall be entitled to an annual fee ("Administrative Fee") which shall be equal to and agreed upon percentage of the Gross Revenue (as defined below) of Bloss. The parties agree that the Administrative Fee shall be 65% percent of Gross Revenue. "Gross Revenue" shall mean total revenues of Bloss, determined on a cash basis, derived in any way from any dental, surgical, or dental care related services provided to Bloss patients at the Locations. The Administrative Fee may thereafter be adjusted at the end of each calendar year to account for changes in the costs incurred by the Company in the prior calendar year that were not accounted for in the calculation of the Administrative Fee for the prior year and for additional or different services to be provided, among other appropriate business considerations ("**Annual Adjustments**"). Concurrent and consistent with the Budget process set forth in Section 4(z), the Company and Bloss shall meet and agree on any Annual Adjustments. If the parties cannot agree upon any

Annual Adjustment within 30 days after presentment of the preliminary Budget to Bloss, the Annual Adjustment (if any) will be determined pursuant to the dispute resolution process in Section 26 of this Agreement. If the parties cannot agree upon any Annual Adjustment prior to the beginning of the corresponding new annual compensation period, then the parties shall continue to operate under the previously agreed upon and then current Administrative Fee until the issue in dispute is resolved as set forth above or the parties otherwise agree upon an Annual Adjustment on a prospective basis.

The Administrative Fee may not be adjusted during any calendar year or annual compensation period, provided, however, in the event that a Materially Adverse Condition, as defined below, arises, Company or Bloss may notify the other party of the increases or decreases in costs resulting from such Materially Adverse Condition and the parties will agree upon the appropriate adjustment to the Administrative Fee following verification of the changes in costs resulting from the unexpected change in circumstances. A “**Materially Adverse Condition**” is a: (i) change in Bloss’s business such that the Administrative Services and associated Administrative Fee negotiated greatly exceed the needs of Bloss or (ii) a material increase in the costs the Company expends to provide Administrative Services due to a change in Bloss’s business. Materially Adverse Conditions include, but are not limited to: (x) a major change in employment costs incurred by Bloss, and (y) uninsured claim or loss incurred by Bloss outside the ordinary course of business that could reasonably be expected to cause Bloss to become insolvent or unable to pay its obligations as they become due. The Company and Bloss agree that in the event that the Administrative Fee is adjusted due to a Materially Adverse Condition, the Administrative Fee shall not thereafter be changed, notwithstanding the provisions regarding Annual Adjustments above, for a period of one (1) year from a Materially Adverse Condition adjustment.

The parties acknowledge and agree that the Administrative Fee is and shall be fair market value for and bear a reasonable relationship to the costs of Company in providing the Administrative Services rendered hereunder and shall not be renegotiated or changed more than once per year, except in the limited circumstances described herein and as permitted by applicable law and regulation. The terms and conditions of this Agreement have been determined by the parties to be commercially reasonable. Payments made to Company pursuant to this Agreement are not intended to be and shall not be construed to permit Company to share in Bloss’s fees for professional dental services, but is intended and acknowledged to be the parties’ negotiated agreement as to the reasonable fair market value of the items and services furnished by Company pursuant to this Agreement, considering the nature and volume of the Administrative Services required and the risks assumed by Company. Bloss hereby waives any and all right they may have to set off or recoupment of the Administrative Fee owed hereunder.

9. Personnel.

(a) Personnel Generally. Bloss shall, at all times, be the sole employer and supervisor of the Professionals. Company shall, on behalf of Bloss, administer the payment of all salaries and other remuneration, including the payment of all applicable federal, state, or local withholding or occupational taxes, social security taxes, unemployment compensation or workers’ compensation contributions, vacation pay, sick leave, retirement benefits or any other

payments for or on behalf of the Professionals. Company shall pay on behalf of Bloss all fees owed to any regulatory authority, including all licensure fees and other expenses attributable solely to the maintenance of the corporate or professional status of such dentists and other practitioners. Company shall employ and provide to Bloss all non-clinical and business office personnel (“**Administrative Employees**”) as are necessary for the operation of Bloss. Company shall determine in its sole discretion the salaries and fringe benefits of all such Administrative Employees.

(b) Dental Assistants and Dental Hygienists. Upon agreement by Bloss and the Company and in accordance with the Staffing Plan as defined in Section 10(c) below, the Company may be the sole employer of dental assistants and/or dental hygienists that will be made available to Bloss to support Bloss’s provision of clinical services, to the extent permitted by applicable law and regulation. In the event of such an agreement, the Company shall lease to Bloss the services of any dental assistants and/or dental hygienists the Company employs to the extent permitted by applicable law and regulation; provided, however, such arrangement does not interfere with or otherwise influence the provision of clinical services by any dental assistants or dental hygienists or Bloss.

(c) Professional Staffing. Company representatives shall assist Bloss (acting through Bloss’s Board of Directors), in developing and updating from time to time a staffing plan (the “**Staffing Plan**”) that meets the economic and service demands of Bloss’s patients. Such Staffing Plan may include recruiting, hiring and discharging of Professionals, changing operational schedules, vacation, etc. to meet the needs of the business. In the event that Bloss’s Board of Directors either on its own or in consultation with the Company determines that a change to the Staffing Plan is necessary to respond to changes in general economic conditions, patient demand, financial performance, professional performance or prospects of Bloss, the Company shall assist Bloss’s Board of Directors in developing revisions to the Staffing Plan or alternative proposals, which are intended to address the current economic and business needs of Bloss. Upon a final decision by Bloss’s Board of Directors to implement such changes to the Staffing Plan or proposed alternatives, the same shall be put into effect. If Bloss does not present a revision to the Staffing Plan or viable alternative plans which, in Company’s judgment, reasonably addresses the change in patient demand, economic or business needs of Bloss, then Company representatives shall propose a revised Staffing Plan or alternative proposal for Bloss’s Board of Directors’ review. For purpose of clarity, the Company representatives’ proposed revisions to the Staffing Plan shall not be implemented if Bloss’s Board of Directors and Company representatives cannot agree on a revised Staffing Plan or alternatives within a reasonable amount of time.

10. Independent Contractors; No Partnership. Under the terms of this Agreement, and in the performance of all obligations hereunder, Company shall be considered an independent contractor of non-professional services to Bloss, and Bloss shall not withhold or in any way be responsible for the payment of any federal, state or local income withholding or occupational taxes, social security taxes, unemployment compensation or workers’ compensation contributions, vacation pay, sick leave, retirement benefits or any other payments for or on behalf of Company. Nothing herein shall be construed to create a partnership or principal-agent,

employer-employee, master-servant, partner or joint venture relationship between the parties. Except as otherwise set forth herein, neither party shall have the authority to bind the other party. The parties hereto expressly disclaim any intent to create a partnership or joint venture and nothing in this Agreement shall be construed as evidence that a partnership has or will be created. Company has not acquired or been granted any legal or beneficial ownership interest in Bloss and disclaims any such interest. None of the parties hereto shall assert any claim or bring any action before any court, arbitrator, agency or tribunal that this Agreement and the performance of the obligations of any party hereto results in the creation of a partnership or joint venture of any kind or that Bloss or any of its shareholders have conveyed any beneficial or legal ownership interest to Company.

11. Insurance.

(a) Malpractice Insurance. Company shall procure and maintain, on behalf of Bloss and in Bloss's name, throughout the entire term of this Agreement, professional liability insurance coverage on Bloss and all the Professionals who are employed by Bloss in the minimum amount of One Million Dollars (\$1,000,000 per occurrence and Three Million Dollars (\$3,000,000) per annual aggregate. Company also shall ensure that any independent contractors rendering dental or professional services to or on behalf of Bloss maintain their own professional liability insurance coverage in the minimum amounts set forth above. The professional liability insurance policy(ies) maintained for Bloss shall name Company (and any other entity designated by Company from time to time as an Affiliate) as additional insured parties thereunder, and shall provide for at least thirty (30) days' advance written notice from the insurer as to any alteration of coverage, cancellation, or other termination. In the event of any alteration of coverage or termination of this Agreement, Bloss will continue to insure Company and Affiliate on a "claims made" basis for the period of time that Company provided administrative services to Bloss. "Affiliate" of a person or entity means (a) any corporation, partnership, limited liability company, trust or other person or entity controlling, controlled by or under common control with the person or entity in question (whether directly or indirectly through one or more intermediaries).

(b) Other. Bloss shall not alter, cancel or terminate any insurance coverage without Company's prior written consent. Bloss hereby irrevocably authorizes Company to make, settle and adjust claims under all insurance policy(ies) and to endorse the name of Bloss on any check or other item of payment for the proceeds thereof.

12. Responsibility for Costs. Company shall be responsible for the cost of its own payroll and office supplies and any other costs and expenses incurred in connection with its furnishing of the Administrative Services, except as otherwise provided for herein.

13. Termination.

(a) Termination by Company. If any one or more of the following events shall occur, Company may, at its option, immediately terminate this Agreement upon notice to Bloss of such termination:

(i) if Bloss fails to timely pay the compensation due under Section 8 of this Agreement;

(ii) if there shall occur any revocation or suspension of Bloss's standing as a professional corporation in the state in which it is formed;

(iii) if this Agreement or any part thereof is transferred to or assigned by Bloss to any person or entity, except as may be otherwise herein permitted;

(iv) upon the filing of a petition in voluntary bankruptcy or an assignment for the benefit of creditors by Bloss, or upon other action taken or suffered, voluntarily or involuntarily, under any federal or state law for the benefit of insolvents by Bloss, except for the filing of a petition in involuntary bankruptcy against Bloss with the dismissal thereof within thirty (30) days thereafter;

(v) if default shall be made by Bloss in the performance of or compliance with any of the covenants, agreements, terms or conditions of this Agreement, and such default shall continue for a period of ten (10) days after written notice thereof from Company to Bloss specifying the items in default; or

(vi) if either of Bloss or any personnel of Bloss, whether employee or independent contractor, is excluded from or otherwise limited in its participation in Medicare, Medicaid or other governmental health care program, unless in the case of exclusion or limitation of an individual, Bloss immediately terminate their relationship with such individual.

(b) Termination by Bloss. Bloss may, at its option, terminate this Agreement upon the refusal or repeated failure of the Company to perform its material obligations under this Agreement, which would constitute a breach of this Agreement, if such breach continues for ninety (90) days after the parties have met to resolve such material breach following receipt by Company of notice specifying such breach in reasonable detail; provided, however, (i) if upon the expiration of the cure period, the Company is still diligently pursuing effectuation of such cure, or if the Company has diligently attempted to effect such a cure within such cure period but cannot complete such cure because of the failure of a third party (such as a governmental agency) to act within such period, then the Company shall have a reasonable time beyond such cure period to complete its cure, but not to exceed 90 days, and (ii) no action to terminate this Agreement can be taken by Bloss until the dispute resolution mechanism set forth in Section 25 of this Agreement is completed.

(c) Termination by Mutual Agreement. This Agreement may be terminated by the mutual agreement of Company and Bloss in writing.

(d) Unilateral Termination by Company. This Agreement may be terminated at any time upon five (5) days prior written notice from the Company to Bloss.

(e) Effect of Termination. Upon termination or expiration of this Agreement for any reason (including the breach by either party), the parties shall be obligated as follows.

(i) Upon the effective date of or termination of this Agreement (“Termination Date”), Company shall cease entering Bloss’s patient and charge data into its billing system. If Bloss so elects, during the one hundred twenty (120)-day period following the Termination Date (“Wind-Down Period”), Company will continue performing billing services that are already on Company’s billing system. During the Wind-Down Period, both parties will continue to perform their obligations in accordance with the terms of this Agreement and Bloss will pay for the billing services provided during the Wind-Down Period. After expiration of the Wind-Down Period, Company will have no further obligation to render Billing Services to Bloss. Nothing in this section shall be construed as to relieve Company of its obligation to continue providing services under this Agreement for the period between the date of notice of termination of this Agreement and the Termination Date.

(ii) Within thirty (30) days after any termination of this Agreement pursuant to this Section 14, an accounting shall be made by each party of monies which may be due and owing the other and payment shall be forthcoming to settle any such balance within fifteen (15) days after each such accounting. No failure or delay on the part of any party to exercise its right of termination hereunder for any one or more causes shall be considered to prejudice said party’s right of termination for such or for any other subsequent cause. Termination or cancellation of this Agreement for any reason whatsoever shall in no way release any party from any payments, obligations or liabilities arising prior to termination;

(iii) Company shall transfer and assign to Bloss all financial, investment and banking accounts and records maintained by Company in the name of, or on behalf of, Bloss; and

(iv) To the extent applicable, Bloss shall return or permit Company to recover all fixtures, equipment, supplies, medical record software, property or other materials provided by Company in connection with the services provided by Company pursuant to this Agreement.

14. Confidential Information of Company. In the course of fulfilling their obligations under this Agreement, Bloss, their members, employees, and independent contractors may be exposed to confidential information concerning the management, structure, marketing and general operations of Company, all of which is proprietary “trade secret” information belonging to Company, the disclosure of which would cause irreparable injury to Company and would impair its goodwill and competitive position. Therefore, Bloss covenants and agrees that it (and its shareholders, employees, and independent contractors) will at all times keep confidential and will not at any time, except with the prior written consent of Company or unless otherwise required by law or in undertaking its duties under this Agreement, directly or indirectly, communicate or disclose or use for its benefit or the benefit of any person or entity other than Company, any trade secrets or confidential or proprietary information of Company, including but not limited to, technical know-how, processes, designs, drawings, customer lists, fees, data, reports, records, plans, policies, applications, or other documents, or any information which is not in the public domain concerning the assets, liabilities, business, operations and/or prospects of Company, and that it will also use its best efforts to prevent any unauthorized disclosure by others. The confidentiality obligations established under this Section 15 shall survive the

termination of this Agreement. The damages and relief upon a violation of this Section 15 shall be those available at law and in equity.

15. HIPAA.

(a) Effective Date of HIPAA Requirements. If, when, and to the extent, and for so long as required by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and their implementing privacy regulations at 45 C.F.R. Parts 160 and 164, as amended (the “Federal Privacy Regulations”) and security regulations at 45 C.F.R. Parts 160 and 164, as amended (the “Federal Security Regulations”), this Section 16 and the Business Associate Agreement between Company and Bloss, attached hereto as Exhibit A and incorporated into this Agreement (the “Business Associate Agreement”), shall remain in effect. The confidentiality obligations established under this Section 16 and the Business Associate Agreement shall survive the termination of this Agreement. The damages and relief upon a violation of this Section 16 and the Business Associate Agreement shall be those available at law and in equity.

(b) Federal Privacy Regulations and Federal Security Regulations. The parties agree to comply with the Business Associate Agreement.

16. Representations and Covenants of Bloss. Bloss hereby makes the following representations, warranties and covenants to Company, each of which is material and is being relied upon by Company, and each of which shall be true as of the date hereof and shall continue to be true throughout the term of this Agreement.

(a) Professional Services. The professional services provided by Bloss shall be provided only by employees or contractors of Bloss who are duly licensed and in good standing to engage in the practice of their profession in all states in which they provide professional services, who are not excluded from or limited in participation in any governmental health care program, not suspended, terminated or otherwise sanctioned by a professional licensing agency, and who have never been denied appointment or reappointment of, or been terminated from, membership on the staff of any hospital or any other health care facility for reasons of ethics or competency, and against whom no proceedings are pending which could result in such denial or termination.

(b) Bloss’s Organizational Status. At all times relevant hereto, Bloss shall be duly organized and validly existing under the laws of the state of its organization and authorized to engage in its professional practice. All beneficial owners of Bloss are duly licensed to practice dentistry in the appropriate jurisdictions, as required under state law.

(c) Authorization. The execution, delivery and performance of this Agreement has and will be duly authorized by Bloss’s Board of Directors and this Agreement is the legal, valid and binding obligation of Bloss, enforceable against Bloss in accordance with its terms.

(d) Board of Directors. Bloss shall form and maintain at all times a board of directors (the “**Board of Directors**”). The Board of Directors shall have such responsibilities and authority as set forth in the Bylaws of Bloss, which will include recruiting, hiring, evaluating, terminating of dentists and scheduling and coordination with Company of clinical operations and dentist vacations.

(e) Acknowledgments Bloss acknowledges and agrees that the services to be provided by Company under this Agreement are feasible only if Bloss operates a vigorous dental practice to which its dentists and other providers devote their full time and attention. Bloss recognizes and acknowledges that Company will incur substantial costs in providing the equipment, support services, personnel, management, administration and other items and services that are the subject matter of this Agreement and that the covenants contained in this Section 17 are necessary for the protection of Company and that Company would not have entered into this Agreement without such covenants and other obligations of Bloss under this Agreement.

(f) Exclusivity. Bloss acknowledges that it is hereby engaging Company during the term as its sole and exclusive manager and provider of the Administrative Services described herein, and Bloss shall not contract with any other person or entity during the term of this Agreement for the provision of Administrative Services or any other substantially similar services.

(g) Electronic Medical Records System. Bloss shall participate in the selection process for the electronic medical records system that shall be provided and managed by the Company, shall cooperate and use said system and shall designate a representative of Bloss acceptable to the Company to participate and work with the Company to address electronic medical record system selection or other issues that may arise.

17. Representations and Covenants of Company. Company hereby makes the following representations, warranties, and covenants to Bloss, each of which is material and is being relied upon by Bloss, and each of which shall be true as of the date hereof and shall continue to be true throughout the term of this Agreement.

(a) Company’s Status. At all times relevant hereto, Company shall be duly organized and validly existing under the laws of the State of California.

(b) Authorization. The execution, delivery and performance of this Agreement has and will be duly authorized by Company’s sole member and this Agreement is the legal, valid and binding obligation of Company, enforceable against Company in accordance with its terms.

(c) Negative Covenants. Notwithstanding any other provision of this Agreement, Company shall not directly or indirectly, refer any patients, items, or services to Bloss in exchange for compensation, remuneration of any kind or in any manner that violates applicable law or regulation..

18. Injunctive Relief. Each party acknowledges that a violation of any of the provisions of this Agreement will cause the other party irreparable injury. Accordingly, each party may enforce such provisions by seeking injunctive or other equitable relief or specific performance in addition to any other remedies available at law or in equity. In the event a court of competent jurisdiction declares any of the provisions of this Agreement to be too broad to be specifically enforced, such provisions shall be enforced to the maximum extent permitted by law.

19. Indemnifications. Each party hereto (the “**Indemnifying Party**”) hereby agrees to indemnify, defend and hold harmless the other party (the “**Indemnified Party**”) from and against and in respect to any Damages, as hereinafter defined. For purposes of this Section 20, “**Damages**” shall include any claims, actions, demands, losses, costs, expenses, liabilities (joint or several), penalties and damages, including reasonable attorneys’ fees incurred in investigating or in attempting to avoid, oppose, settle, resolve or litigate the same, resulting to the Indemnified Party from (i) the material inaccuracy or material breach of any of the representations or warranties made by the Indemnifying Party in or under this Agreement, or (ii) the material breach or default in the performance by the Indemnifying Party of any of the covenants or obligations to be performed hereunder. The indemnification obligations established under this Section 20 shall survive the termination of this Agreement.

20. Time of Essence. The parties hereto acknowledge that time is of the essence in regard to the obligations established hereunder. The parties hereto agree that they shall cooperate in good faith to accomplish the objectives of this Agreement, and to execute and deliver the documents and instruments and take such further action as may be reasonably necessary to effectuate the terms, conditions, and purposes of this Agreement.

21. Attorneys’ Fees. Notwithstanding anything herein to the contrary, in the event of litigation or arbitration between the parties hereto, with respect to the subject matter hereof, the prevailing party(ies) in such proceeding shall be entitled to an award of costs and fees incurred by reason of such proceeding, including reasonable attorneys’ fees, and costs and fees on appeal, if any.

22. No Act Contrary To Law. Nothing herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any applicable statute, law, ordinance or regulation which is inconsistent with this Agreement, such statute, law, ordinance or regulation shall prevail, and, in such event, the provision herein in conflict automatically shall be curtailed, limited, or eliminated to the extent necessary to bring it within legal limitations.

23. Changes in Law and Regulations. Notwithstanding anything herein to the contrary, if during the term hereof any Change of Law results in an Adverse Consequence (as such terms are hereinafter defined), the parties agree to cooperate in making reasonable revisions to this Agreement in order to avoid such Adverse Consequence. If the parties through good faith negotiations fail to agree to such revisions after forty-five (45) days following written notice by any party to the other parties requesting renegotiation, then either party may terminate the Agreement upon providing thirty (30) days advance written notice. As used herein, “**Change of Law**” shall mean: (i) any new legislation enacted by the federal or any state or local government; (ii) any new third party payer or governmental agency law, rule, regulation or

guideline; (iii) any judicial or administrative order, decree or decision; or (iv) any interpretation of (i), (ii), or (iii) above by a court of competent jurisdiction. As used herein, “**Adverse Consequence**” shall mean a Change of Law that prohibits, restricts, limits or otherwise affects any party’s rights or obligations hereunder in a material manner or otherwise makes it desirable for the parties to restructure the relationship established hereunder because of material legal or financial consequences expected to result from such Change of Law.

24. Acts to Effectuate Agreement. The parties hereto each hereby covenants and agrees to do and perform any and all acts, matters and things, and to make, execute, acknowledge and deliver any and all agreements, documents and instruments, as may from time-to-time be deemed necessary or expedient in the reasonable opinion of the other party, in order to effectuate the intent and purpose of this Agreement or the consummation of the transactions herein contemplated.

25. Dispute Resolution. Any controversy, dispute, or disagreement arising out of or relating to this Agreement, or the breach thereof, shall be settled exclusively as follows:

(a) The parties agree to meet and confer in good faith to resolve any dispute arising between them in the performance of this Agreement, including any claims by either party that the other party breached any provision of this Agreement.

(b) If the parties are unable to resolve any such dispute through such discussions within ninety (90) days after the conclusion of a party’s cure period pursuant to Section 14 of this Agreement, the parties shall submit the dispute to non-binding mediation in accordance with procedures agreed upon by the parties.

(c) If the dispute is not resolved through mediation within forty-five (45) days after the initial request for mediation or within a time frame mutually agreed upon by the parties, the dispute must then be submitted for binding arbitration, to be decided by one (1) arbitrator, in accordance with the American Health Lawyers Association Alternative Dispute Resolution Service Rules of Procedure for Arbitration, and judgment on the arbitration award may be entered in any court having jurisdiction thereof.

(d) Each party shall be personally responsible for paying its or his own fees and costs relating to any arbitration proceedings, including, without limitation, attorneys’ fees.

26. Governing Law and Choice of Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to principles of conflict of laws and, subject to Section 25 hereof, the parties hereto each hereby irrevocably: (a) agrees that any suit, action or other legal proceeding arising out of this Agreement shall be brought exclusively in the federal or state courts of the State of California; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (c) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts.

27. **Notices.** Any and all notices and other correspondence required or permitted to be given in connection with, or pursuant to, this Agreement shall be in writing and delivered by hand, by recognized national overnight courier or by deposit in the United States mail, registered or certified mail, return receipt requested, with full postage prepaid and addressed to the recipient's place of business or residence or to such other addresses as the parties may, from time-to-time, designate by written notice to each other in the foregoing manner. Notices given by mail shall be deemed effectively given on the earlier of the date shown on the proof of receipt of such mail or, unless the recipient proves that the notice was received later or not received, three (3) days after the date of mailing thereof. Other notices shall be deemed effectively given on the date of receipt.

28. **Parties.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and lawful assigns.

29. **No Assignment.** Neither this Agreement nor any of the rights or obligations of the parties hereunder may be assigned by Bloss, in whole or in part, without the express, prior written consent of Company, which consent shall not be unreasonably withheld. Company may assign such rights or obligations as it deems appropriate, including, but not limited to its Affiliates and its lenders at Company's sole and exclusive discretion; provided, however, that any such assignment by the Company shall not modify the terms of this Agreement.

30. **No Obligation to Third Parties.** Except as explicitly provided in this Agreement, none of the obligations and duties of the parties under this Agreement shall in any way or manner be deemed or construed to create any obligation of either party to, or any rights in, any person or entity not a party to this Agreement, except as this Agreement may expressly state otherwise.

31. **Entire Agreement.** This writing and any exhibits or schedules hereto contains the entire agreement and understanding of the parties hereto with respect to the subject matter set forth herein or necessarily implied, and supersedes all prior agreements by and between the parties hereto with respect to the same subject matter (other than those agreements dated even date herewith that have been executed in connection with this Agreement). No agreements, promises, covenants, representations, warranties or indemnities have been made or relied upon by either of the parties hereto, other than those that are expressly herein set forth.

32. **No Oral Modifications or Amendments.** This Agreement may not be modified, altered, amended, changed, waived or terminated, except pursuant to a writing signed by both parties hereto.

33. **No Waiver.** The failure by either party hereto to object to or take affirmative action with respect to any conduct of the other party which constitutes a breach or other violation of this Agreement shall not constitute, nor be construed as, a waiver thereof, or of any future breach, violation, or subsequent wrongful conduct.

34. Severability and Reformation. In the event that any one or more provisions of this Agreement shall be declared invalid or unenforceable by any court of competent jurisdiction or otherwise conflict with applicable law, such provisions shall, to the extent possible, be reformed in such a fashion as to not be invalid, unenforceable or otherwise in conflict with applicable law, and if such reformation is not possible, then and in that event such provisions shall be deemed deleted and the remaining provisions, terms and conditions hereof shall be and continue to be in full force and effect.

35. Captions. All section headings used herein are for convenience of reference purposes only and shall be given no significance in the interpretation of the provisions, terms or conditions hereof.

36. Interpretation. For purposes of this Agreement, words connoting a particular gender shall, where applicable, be deemed to mean and include the correlative words of the other gender, and words importing the singular number shall, where applicable, be deemed to mean and include the plural number and vice versa. The words “**hereof**,” “**herein**” and “**hereunder**” and words of similar import, when used in this Agreement, shall be deemed to refer to this Agreement as a whole and not to any particular provision of this Agreement unless the context clearly indicates otherwise.

37. Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original hereof, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first hereinabove written.

DENTAL SURGERY CENTERS OF AMERICA, a California corporation

By:

Name:

Title:

BLOSS MEMORIAL HEALTHCARE DISTRICT, a California healthcare district

By:

Name:

Title:

[Signature page to Administrative Services Agreement]

Exhibit A

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and among Bloss Memorial Healthcare District, a California healthcare district (“Covered Entity”), and Dental Surgery Centers of America (“Business Associate”). Covered Entity and Business Associate agree that the parties incorporate this Agreement into the Administrative Services Agreement (“Service Agreement”).

1. BACKGROUND

Pursuant to the Service Agreement, Business Associate performs functions, activities or services for, or on behalf of Covered Entity involving Protected Health Information as that term is defined in the privacy and security regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”), set forth at 45 CFR Parts 160 and 164 (“the HIPAA Rules”). The purpose of this Agreement is to set forth the terms and conditions governing Business Associate’s use and disclosure of Protected Health Information.

2. DEFINITIONS

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Rules. Following are some of the key terms of this Agreement:

2.1 *Individual.* “Individual” shall have the same meaning as the term “individual” in the HIPAA Rules and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

2.2 *Privacy Rule.* “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

2.3 *Protected Health Information.* “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in the HIPAA Rules, limited to the PHI created or received by Business Associate from or on behalf of Covered Entity.

2.4 *Required By Law.* “Required By Law” shall have the same meaning as the term “required by law” in the HIPAA Rules.

2.5 *Secretary.* “Secretary” shall mean the Secretary of the Department of Health and Human Services (“HHS”) or his designee.

2.6 *Security Rule.* “Security Rule” shall mean the Health Insurance Reform Security Standards at 45 CFR Part 160, and Part 164, Subparts A and C.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

3.1 *Use and Disclosure of PHI.* Business Associate agrees to not use or further disclose PHI other than as permitted or required by the Agreement or as Required By Law.

3.2 *Safeguards.* Business Associate agrees to implement and use appropriate safeguards to prevent use or disclosure of PHI that would be inconsistent with this Agreement or the HIPAA Rules. Business Associate shall develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to prevent the improper use or disclosure of PHI, and shall document such safeguards.

3.3 *Mitigation.* Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement or the HIPAA Rules, any Security Incident or any Breach of Unsecured PHI.

3.4 *Reports of Non-Permitted Use or Disclosure, Security Incidents and Breaches.* Business Associate agrees to promptly report to Covered Entity any use or disclosure of PHI that is inconsistent with this Agreement or the HIPAA Rules. In addition, to the extent known to Business Associate, Business Associate shall promptly report to Covered Entity any Security Incident involving electronic PHI and any Breach of Unsecured Protected Health Information involving PHI. All reports of Breaches shall be made within twenty-four (24) hours of Business Associate discovering the Breach and shall include the information specified at 45 CFR § 164.410.

3.5 *Agents.* Business Associate agrees to ensure that any agent, including a subcontractor to whom it provides PHI agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI.

3.6 *Designated Record Set and Patient Health Care Records.*

- (a) Business Associate agrees to provide access to PHI that is maintained in a Designated Record Set to an Individual or Covered Entity, at the request of Covered Entity, and in the time and manner designated by Covered Entity to meet the requirements of 45 CFR § 164.524;
- (b) Business Associate agrees to make available PHI for amendment and to make any amendment(s) to PHI that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity, and in the time and manner designated by Covered Entity.

3.7 *Internal Practices.* Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI available to Covered Entity or to the Secretary, in a time and manner designated by Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with the HIPAA

Rules.

3.8 *Documentation of Disclosures.*

- (a) Except for disclosures excluded from the accounting obligation by the HIPAA Rules and regulations issued pursuant to HITECH, Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to comply with 45 CFR § 164.528.
- (b) Business Associate agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with Section 3.8(a) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

3.9 *Maintenance of the Security of Electronic Information.* Business Associate shall develop, implement and maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of electronic PHI. Business Associate shall document and keep these security measures current and available for inspection upon request. Business Associate's security measures must be consistent with the HIPAA Rules as amended by HITECH.

4. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

4.1 *General.*

Business Associate is permitted to use and disclose PHI to perform any and all obligations of Business Associate as described in the Service Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by Covered Entity directly.

Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI for the proper management and administration of Business Associate and to carry out its legal responsibilities, provided that if Business Associate discloses PHI for such purposes, such disclosures are required or permitted by law, or Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached. To the extent Business Associate is to carry out an obligation of Covered Entity under the Privacy Rules, Business Associate shall comply with the requirements of the Privacy Rules that apply to Covered Entity in the performance of such obligation.

4.2 *Data Aggregation.* Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).

4.3 *Violations.* Business Associate may use PHI to report violations of law to appropriate state and federal authorities, consistent with 45 CFR § 164.502(j)(i).

4.4 *Marketing/Sale of PHI.* Business Associate will not sell PHI or use or disclose PHI for purposes of marketing or fundraising, as defined and proscribed in the HIPAA Rules and HITECH.

4.5 *Minimum Necessary.* Business Associate represents that the PHI requested, used or disclosed by Business Associate shall be the minimum amount necessary to carry out the purposes of the Service Agreement. Business Associate will limit its uses and disclosures of, and requests for, PHI (i) when practical, to the information making up a Limited Data Set; and (ii) in all other cases subject to the requirements of 45 CFR § 164.502(b), to the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request.

4.6 *Deidentification.* Business Associate may use or disclose any de-identified information in accordance with 45 C.F.R. § 164.514(b), provided that such de-identified information may be used and disclosed only consistent with applicable law.

5. OBLIGATIONS OF COVERED ENTITY

5.1 *Privacy Practices.* Covered Entity has provided Business Associate with its joint notice of privacy practices and will promptly provide to Business Associate any copies of material changes to such notice.

5.2 *Agreements With Individuals.* Covered Entity shall provide Business Associate with notice of any Covered Entity agreement with an Individual for changes to or revocation of permission to use or disclose that Individual's PHI, if such changes affect Business Associate's permitted or required uses and disclosures of PHI.

5.3 *Notice of Restrictions.* Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522.

6. TERM AND TERMINATION

6.1 *Term.* The Term of this Agreement shall be effective as of the effective date of the Service Agreement, and shall not terminate unless or until the termination or non-renewal of the Service Agreement or as specified below.

6.2 *Termination for Cause.* Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either (a) provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Service Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; or (b) immediately terminate this Agreement and the Service Agreement if Business Associate has breached a material term of this Agreement and cure is not

possible. If cure is not possible, the Covered Entity shall report the breach to the Secretary.

6.3 *Effect of Termination.*

- (a) Upon termination of this Agreement, for any reason, Business Associate shall work with Covered Entity in good faith to return all PHI by transferring PHI to a successor electronic system as required for continued operations following termination of this Agreement. Subject to all applicable law, Business Associate shall deliver to Covered Entity a copy of a database containing all PHI in Business Associate's possession, and Covered Entity shall reimburse Business Associate for Business Associate's costs incurred in creating the copy. The database shall be in an electronic format that is acceptable to all parties.
- (b) Upon termination of this Agreement for any reason, any PHI maintained by Business Associate that is not returned pursuant to subsection (a) above shall be destroyed if feasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (c) In the event that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

7. MISCELLANEOUS

7.1 *Regulatory References.* A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required.

7.2 *Amendment.* In the event that any final regulation or amendment to final regulations is promulgated by HHS or other government regulatory authority with respect to PHI, the Parties agree to take such action as is necessary to amend this Agreement as is necessary for Covered Entity and Business Associate to comply with the HIPAA Rules.

7.3 *Survival.* The respective rights and obligations of Business Associate under Section 6.3 of this Agreement shall survive the termination of this Agreement.

7.4 *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules.

7.5 *Relationship to Other Agreement Provisions.* In the event that a provision of this Agreement is contrary to a provision of an underlying agreement or agreements under which Covered Entity discloses PHI to Business Associate, the provision of this Agreement shall

control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of such underlying agreement or agreements between the parties.

7.6 *Modification of Agreement.* No alteration, amendment or modification of the terms of this Agreement shall be valid or effective unless in writing and signed by Business Associate and Covered Entity.

7.7 *Notices.* Any notices required or permitted to be given under this Agreement by either party shall be given in writing: (a) by personal delivery; (b) by electronic facsimile with confirmation sent by United States first class mail; (c) by bonded courier or nationally recognized overnight delivery service; or (d) by United States first class registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at the addresses set forth on the first page of this Agreement or to such other addresses as the parties may request in writing by notice pursuant to this Section 7.7. Notices shall be deemed received on the earliest of personal delivery, upon the next business day after delivery by electronic facsimile with confirmation that the transmission was completed or upon receipt by any other method of delivery.

[Signatures Follow]

Covered Entity:

BLOSS MEMORIAL HEALTHCARE DISTRICT, a California healthcare district

By:

Name:

Title:

Business Associate:

DENTAL SURGERY CENTERS OF AMERICA, a California corporation

By:

Name:

Title:

Exhibit B

AGENCY LETTER

[Bloss LETTERHEAD]

TO: [Payors of Bloss]

FROM: Bloss Memorial Healthcare District, a California healthcare district

DATE: _____, 20__

SUBJECT: Designation of Authorized Representative

This is to notify you that _____ (the "Bloss") has retained Dental Surgery Centers of America (the "Manager"), on an exclusive basis to act as Bloss's representative to negotiate and execute, in Bloss's name and on Bloss's behalf, its payor contracts, including the proposed agreement, amendment and/or addendum (the "Contracting Documents") with you. Accordingly, we ask that you recognize the Manager as our representative with respect to the Contracting Documents.

The undersigned hereby affirms that (i) the Manager is authorized by Bloss to work directly with you and to execute any proposed Contracting Documents in Bloss's name and on Bloss's behalf, using the title "Authorized Representative," and (ii) any Contracting Documents signed by the Manager as described above will be binding and enforceable against Bloss. Further, all communications and notices required under the Contracting Documents after execution should be directed to the Manager, until Bloss provides you with written notice otherwise.

We thank you for your cooperation in this matter.

**BLOSS MEMORIAL HEALTHCARE
DISTRICT**, a California healthcare district

By:
Name:
Title: