

**PAYDENT CORPORATION
DENTAL PROVIDER TERMS AND CONDITIONS**

These Dental Provider Terms and Conditions (“Terms”) are made, agreed and acknowledged by and between PayDent Corporation (“PayDent”) and a dental service provider (“Provider”).

WHEREAS, PayDent facilitates payment to dental offices enrolled in PayDent’s professional dental services provider network (“Network”) by patients who have deposited funds with PayDent as a part of PayDent’s professional dental services payment program (“Program”); and

WHEREAS, the Provider is duly licensed and qualified to provide professional dental services (“Dental Services”) in the state in which Dental Services are to be provided under these Terms, and desires to enroll in PayDent’s Network to receive payment through PayDent’s Program.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties, intending to be legally bound, agree as follows:

**ARTICLE I
DEFINITIONS**

- 1.1 “Covered Service” means a professional dental service as defined by an appropriate American Dental Association code or codes as set forth on the Fee Schedule.
- 1.2 “Fee Schedule” means a schedule established by Provider which sets forth the payment levels by which the Provider has agreed to accept as payment in full.
- 1.3 “Provider” means the contracting Provider and/or dental office(s) under these Terms, including dentists who are employed by, or partners of, or associated with the Provider and dentists who practice specialty services such as, but not limited to, orthodontics.
- 1.4 “Program Participant(s)” refers to eligible individuals or such individual's eligible dependents, participating in the Program, who are eligible to receive dental services from Providers and are currently enrolled in the Program.
- 1.5 “Provider” means the individual or entity that provides Dental Services to Program Participants through a contracted arrangement with PayDent; Provider’s employees; contractors and subcontractors; and those individuals or entities performing administrative or other services for or on behalf of Provider directly or indirectly related to or on behalf of Program Participants. “Provider” shall include both “In-Network Providers” and “Out-of-Network Providers”.

**ARTICLE II
RESPONSIBILITIES OF THE PARTIES AND PROVIDER DELEGATED ACTIVITIES**

- 2.1 Licensure. Provider represents and warrants that Provider is licensed and certified to practice dentistry in the state(s) in which a Covered Service is to be provided under these Terms and agrees to maintain such license and certification throughout the term of these Terms. Provider agrees to notify PayDent immediately should either such license or certification be revoked, restricted, suspended or otherwise be subject to disciplinary action by any governmental body. Provider also represents and warrants that, as applicable, Provider’s employees, contractors and agents providing any Covered Service are appropriately licensed and Provider agrees to notify PayDent immediately should any such license or certification be revoked, restricted, suspended or otherwise be subject to disciplinary action by any governmental body.
- 2.2 Standards of Care and Professional Conduct. Provider agrees to deliver care to the Program Participants commensurate with professional standards of care as defined by and as revised or amended from time to time by the American Dental Association, including but not limited to the ethical and professional conduct guidelines as set forth in the American Dental Association’s current Code of Ethics and Professional Conduct, its constituent societies and dental specialty organizations. Provider shall not discriminate in the provision of Dental Services to any Program Participant on the basis of participation in the Program, source of payment, age, sex, ethnicity, religion, sexual orientation, health status or disability. If Provider fails to deliver care to the Program Participants as set forth in this Section 2.2, PayDent shall have the right to immediately terminate these Terms without notice.
- 2.3 Credentialing, Enrollment and Compliance. The Provider agrees to cooperate in furnishing all required information to comply with PayDent’s Provider credentialing and enrollment process. Approval by PayDent’s credentialing and enrollment committee will be the final step prior to executing these Terms. The Provider will be given a reasonable time frame to respond to any deficiencies found during the credentialing and enrolling process. These Terms will not be in effect until credentialing and enrollment approval is final and an authorized Provider representative has dated and countersigned these Terms.

Beginning on the effective date of these Terms, PayDent shall have the right, but not the obligation, to review the x-rays, patient charts, and billing methods and procedures (the "Program Participant Records") for Covered Services provided to Program Participants to ensure Provider's compliance with Section 2.2 hereof. Upon Provider's receipt of PayDent's written request to review the Program Participant Records, Provider shall furnish copies of all such Program Participant Records to PayDent within three (3) business days. If Provider fails to provide PayDent with all of the requested Program Participant Records within three (3) business days, PayDent shall have the right to terminate these Terms immediately without notice.

- 24 Insurance. The Provider agrees to maintain, at the Provider's sole cost and expense, such policies of general and professional liability and other insurance as necessary to insure Provider, and if applicable, any and all of its officers, directors, partners, associates, agents and employees, against any liability or claims for damages, including those arising by reason of personal injuries or death occasioned directly or indirectly by such Provider, or any or all of its officers, directors, partners, associates, agents or employees, in connection with the performance of any Dental Service provided by Provider pursuant to these Terms. The amounts of such insurance shall be no less than the state mandated amount in the state in which Dental Services are rendered and if no such state mandated amount exists, the Provider agrees to maintain policies of general and professional insurance with a policy limit of at least One Million Dollars (\$1,000,000) per occurrence, Three Million Dollars (\$3,000,000) annual individual aggregate coverage, or in such other amounts as PayDent may reasonably require from time to time. Proof of such insurance shall be included in the Provider credentialing process. Provider must be notified in writing by certified letter or by overnight delivery service within ten (10) calendar days of the loss, cancellation or reduction of such coverage.
- 25 Continuation of Patient Care. In the event of termination of these Terms or of the Program Participant's eligibility, Covered Services, which were started prior to termination, must be completed within a reasonable period of time at the charge established under the Program as set forth on the Fee Schedule or, if at a charge different than that set forth on the Fee Schedule, at such charge as Provider disclosed to the Program Participant in writing prior to Provider's provision of the Covered Services (a "Customized Fee"). The Provider's obligation to complete any Covered Services shall not be applicable in the event of termination by Provider under Article IV, Paragraph 4.4 "Failure to Maintain Professional and Customer Service Standards."
- 26 Provider Status. Provider certifies that neither the Provider nor the Provider's subcontractors have been: (i) charged with a criminal offense in connection with obtaining, attempting to obtain, or performing of a public (federal, state or local) contract or subcontract, (ii) listed by a federal government agency as debarred, (iii) proposed for debarment or suspension or otherwise excluded from federal program participation, (iv) been convicted of or had a civil judgment rendered against them regarding dishonesty or fraud including mail fraud or false representations, violation of a fiduciary relationship, violation of federal or state antitrust statutes, securities offenses, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; or (v) within a three (3) year period preceding the date of these Terms, had one or more public transactions (federal, state or local) terminated for cause or default. Provider acknowledges and agrees that Provider has a continuing obligation to notify Provider in writing within seven (7) business days by certified letter or overnight delivery service if any of the above-referenced representations change. Provider further acknowledges and agrees that any misrepresentation of its status or any change of its status at any time during the term of these Terms, may be grounds for immediate termination of these Terms, at the sole discretion of Provider.
- 27 Compliance with Law. Provider will comply with all applicable laws, rules and regulations required by the geographic area in which services are to be provided under these Terms.

ARTICLE III COMPENSATION

3.1 Fee Schedule.

- In-Network Provider. Providers designated as "In-Network" shall be paid by PayDent in accordance with the Fee Schedule found at www.paydent.com for Dental Services rendered to Program Participants by the In-Network Provider hereunder. For Dental Services not identified on the Fee Schedule, the In-Network Provider agrees to accept payment in the amount determined by PayDent in accordance with the methodology PayDent uses to establish fees listed on the Fee Schedule. The parties agree that the Fee Schedule is proprietary and confidential. The In-Network Provider reserves the right to amend the Fee Schedule in accordance with Section 7.1 of these Terms. Notwithstanding the foregoing, if an In-Network Provider shall charge a Program Participant a Custom Fee for a Covered Service instead of the amount set forth on the Fee Schedule, In-Network Provider acknowledges that PayDent shall only be responsible to pay In-Network Provider the amount set forth in the Fee Schedule for such Covered Service, or such other amount as otherwise determined under this Section 3.1. In-Network Provider agrees that in the event it charges a Program Participant a Custom Fee, that In-Network Provider shall be solely responsible for collection of any such excess amount and releases PayDent from any and all liability in connection therewith.

- Out-of-Network Provider. Providers designated as "Out-of-Network" may determine their own fee schedule, in their sole discretion, to charge the Program Participants for Dental Services. For any Dental Services provided by an Out-of-Network Provider, such Out-of-Network Provider shall be paid an amount equal to the funds which Program Participant authorizes PayDent to pay to the Out-of-Network Provider (the "Authorized Payment Amount"), regardless of the fee amount charged by

the Out-of-Network Provider to the Program Participant. Out-of-Network Provider acknowledges that PayDent shall only be responsible to pay Out-of-Network Provider the Authorized Payment Amount. Out-of-Network Provider hereby agrees and acknowledges that where the Authorized Payment Amount is less than the fee charged by Out-of-Network Provider, Out-of-Network Provider shall be solely responsible for collection of any such excess amount and does hereby forever release PayDent from any and all liability in connection therewith.

- 3.2 Payment Deficits. PayDent shall have no liability or obligation for any amounts due to Provider for Dental Services provided to Program Participants to the extent payment for such Dental Services is not fully covered by PayDent due to a lack of sufficient funds in Program Participant's PayDent account. Only Program Participants shall be liable for any such deficits in Provider's receipt of full payment for Dental Services. If applicable, Provider shall notify the Program Participant prior to furnishing non-Covered Services of any personal financial obligation for non-Covered Services.
- 3.3 Payment in Full. Provider agrees that the fees received from PayDent in the amount set forth on the Fee Schedule constitutes in full PayDent's payment obligation to the Provider for the Covered Services rendered. Without prior written notification to the Program Participant, Provider agrees not to charge the Program Participant any additional sums for Covered Services under the Program administered under these Terms.
- 3.4 Incorrect Payments. Provider agrees to notify PayDent of receipt of duplicate payments, overpayments, or payments that are otherwise incorrect. In the event of any duplicate payments or overpayments, Provider shall immediately refund such duplicate and overpayments to PayDent. In the event of an underpayment on behalf of a Program Participant that is not due to insufficient funds in such Program Participant's Program account, PayDent shall promptly remit the amount of such underpayment to Provider.

ARTICLE IV TERM AND TERMINATION

- 4.1 Term of Agreement. These Terms shall become effective as of the date of Provider's acceptance of these Terms for an initial term of one year. Unless either party shall have given the other party notice of termination in accordance with Article IV, the terms of these Terms shall be automatically renewed for successive one-year periods during which these Terms shall remain in effect unless otherwise terminated.
- 4.2 With or Without Cause. These Terms may be terminated by either party, with or without cause, upon no less than ninety (90) calendar days prior written notice to the other party. Both parties shall remain liable for any obligations arising from activities carried on by such parties during the period these Terms is in effect. Termination shall have no effect upon the rights and obligations of the parties arising out of any transactions occurring prior to the effective date of such termination. Notwithstanding the foregoing, at no time before or after termination shall PayDent be liable for any payment deficits as set forth in Section 3.2 of these Terms.
- 4.3 Insolvency. If any party hereto institutes, or consents to the institution of bankruptcy, insolvency or similar proceeding, makes an assignment for the benefit of creditors, suffers the appointment of a trustee or a receiver for a substantial portion of its assets, or becomes insolvent or unable to pay its debts as they mature; then these Terms shall be terminated effective the first day of the month following such event.
- 4.4 Failure to Maintain Professional and Customer Service Standards. Except as may otherwise be set forth in these Terms, PayDent will place the Provider on thirty (30) calendar days probationary notice when in the sole discretion of PayDent, Provider is not meeting PayDent's minimum professional and customer services standards in Provider's provision of Dental Services to Program Participants. If the Provider does not correct the deficiencies to the satisfaction of PayDent within such thirty (30) calendar day period, these Terms may be terminated by PayDent upon written notice as provided for under the notice provision of these Terms which notice shall set forth the grounds for such termination.
- 4.5 Loss of Licensure, Certification or Registration. PayDent may terminate these Terms, at PayDent's sole discretion at any time, because of a suspension, withdrawal, expiration, non-renewal or revocation of any state or local license, certificate, registration or other legal credential authorizing the Provider to practice dentistry.
- 4.6 Material Breach. The foregoing shall not, in any way, diminish either party's right (which is hereby given by each party to the other) to terminate these Terms immediately upon written notice to the other party in the event of a material breach of any of its terms by the other.
- 4.7 Criminal Charge or Conviction. PayDent may terminate these Terms, at its sole discretion at any time, because of the Provider's indictment, arrest, charge or conviction of any felony or criminal charge related to moral turpitude or the practice of dentistry.

ARTICLE V

RATING SYSTEMS

- 5.1 **Provider Rating System.** Upon providing Dental Services to a Program Participant, Provider acknowledges and agrees that such Program Participant shall have the opportunity to rate the quality of his/her experience with Provider using PayDent's provider rating system (the "Provider Rating System"). The Provider Rating System shall consist of a Program Participant giving the Provider a rating ranging from 1 to 5 teeth, with 1 being the lowest rating and 5 being the highest rating. Aside from a 1-5 rating, a Program Participant shall not be permitted to submit any other information, including any comments explaining such ratings, to PayDent via the Provider Rating System. Once the Provider has received an aggregate of at least 3 ratings from Program Participants, then Provider's aggregate rating (the "Provider's Rating") shall be available to Program Participants when such Program Participant is viewing available Providers via PayDent from whom he/she may request to receive Dental Services. Under the Provider Rating System, a Program Participant shall only have access to the Provider's Rating and Provider's name and location and shall not have access to any other information, including but not limited to, other Program Participants to whom Provider has provided Dental Services.
- 5.2 **Patient Rating System.** Upon completion of providing Dental Services to a Program Participant, Providers shall have the opportunity to rate the quality of their experience with such Program Participant using PayDent's patient rating system (the "Program Participant Rating System"). The Program Participant Rating System shall consist of Provider giving the Program Participant a rating ranging from 1 to 5, with 1 being the lowest rating and 5 being the highest rating. Aside from a 1-5 rating, Provider shall not have the opportunity to submit any other information to PayDent via the Program Participant Rating System. Once the Program Participant has received an aggregate of at least 3 ratings from Providers, then Program Participant's aggregate rating (the "Program Participant's Rating") shall be available to Providers upon Program Participant's request to schedule Dental Services via PayDent with such Provider. Provider shall either accept or deny Program Participant's request for Dental Services within three (3) business days ("Rating Review Period"). If Provider does not deny Program Participant's request within the Rating Review Period, Provider shall be deemed to have accepted Program Participant's request to receive Dental Services. Under the Program Participant Rating System, a Provider shall only have access to the Program Participant's Rating and Program Participant's name and shall not have access to any other information, including but not limited to, procedures performed or other Providers from which Program Participant has received Dental Services. If, for any reason, a Provider becomes aware of another Provider from whom a Program Participant received Dental Services, neither Provider shall discuss such Program Participant's Rating in any way.

ARTICLE VI INDEMNIFICATION

- 6.1 **By Provider.** Provider agrees to defend, hold harmless and indemnify PayDent from and against any and all claims, demands, causes of action, liability, damages, costs and expenses, including attorneys' fees and litigation expenses, that may arise, but only to the extent they arise, directly or indirectly, out of any intentional or negligent acts or omissions of Provider, breach of any representations and warranties or non-compliance with these Terms by Provider.

ARTICLE VII AMENDMENTS

- 7.1 **Amendments.** PayDent may amend these Terms, or any other written document made part of these Terms, at any time provided that such amendment shall first become effective thirty (30) calendar days from the date PayDent mailed, by regular mail, the amendment. If the Provider does not notify PayDent in writing of nonacceptance of the amendment at least five (5) calendar days prior to the effective date of the amendment, the amendment will be deemed to have been accepted by the Provider.

ARTICLE VIII GENERAL

- 8.1 **Headings.** The headings for the articles of these Terms are inserted solely for the convenience of reference, and form no substantial part of these Terms nor shall they be used in any interpretation or construction of the substantive portions of these Terms.
- 8.2 **Notices.** Unless otherwise provided for in these Terms, all notices which are or may be required to be given by either party to the other pursuant to these Terms and the transactions contemplated hereby shall be in writing and shall be deemed to have been properly given (i) if and when delivered personally, (ii) three (3) business days after being sent by certified mail, return receipt requested, or (iii) one (1) business day after being sent by a nationally recognized overnight delivery service. Each party to these Terms shall promptly notify the other party in writing of any change in address.
- 8.3 **Entire Terms.** These Terms including any amendments, exhibits, and Attachments hereto, sets forth and constitutes the entire Terms and understanding of all the duties and obligations of the parties to these Terms in respect to the subject matter of these Terms. These Terms supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises

covenants, arrangements, communications, representations and warranties, whether oral or written, of any party to these Terms and no party to these Terms may rely or shall be deemed to rely.

- 8.4 Assignment. The rights and obligations of these Terms may be assigned, conveyed, or transferred by PayDent to any successor or affiliate or parent company without the Provider's consent. The rights and obligations of these Terms may not be assigned, conveyed, or transferred by the Provider without the prior written consent of PayDent. The provisions of these Terms shall be binding upon and inure to the benefit of successors and assigns of the parties.
- 8.5 Internal Appeal and Arbitration. Any dispute or controversy between the parties involving these Terms, or the interpretation thereof, must first be internally appealed by the Provider to an appeals committee to be designated by PayDent. If not resolved by such appeal, then the dispute or controversy shall be settled by binding arbitration in accordance with the Commercial Rules of the American Arbitration Association then in effect; and judgment upon the award may be entered in any court having jurisdiction thereof. Each party will bear the fees and expense of its own attorneys, experts, witnesses and preparation and presentation of evidence at the arbitration. The prevailing party in arbitration shall be entitled to a recovery of reasonable attorneys' fees and costs.
- 8.6 Waiver of Breach of Terms. The failure of either party to insist upon strict performance of any of the terms of these Terms shall not be construed as a waiver of its respective rights, or remedies with respect to any subsequent breach of or default under any of the terms of these Terms.
- 8.7 Severability. If any provision of these Terms is determined to be invalid, illegal, or unenforceable, the remaining provisions of these Terms remain in full force, if the essential provisions of these Terms for each party remain valid, binding, and enforceable.
- 8.8 Force Majeure. The obligations of a party under these Terms will be suspended for the duration of any force majeure applicable to that party. The term "force majeure" means any cause not reasonably within the control of the party claiming suspension, including, without limitation, an act of God, war, terrorism, riot, weather-related disaster, epidemic, pandemic, earthquake, governmental action or breakdown of equipment. The party claiming suspension under this Section will take reasonable steps to resume performance as soon as possible without incurring unreasonably excessive costs. Nonetheless, if the party claiming suspension cannot resume performance within sixty (60) calendar days of the initial date of suspension, then the other party may immediately terminate these Terms by giving the non-performing party written notice.
- 8.9 Third Party Beneficiaries. These Terms is entered into by and between the parties hereto solely for their benefit. The parties have not created or established any third-party beneficiary status or rights in any person or entity not a party hereto.
- 8.10 Governing Law and Jurisdiction. These Terms and use of the Sites are governed by the laws of the State of Illinois, United States of America, without regard to Illinois's conflict of laws rules. If the arbitration agreement is ever deemed unenforceable or void, the Program Participant irrevocably consents to the exclusive jurisdiction of the federal and state courts in Cook County, Illinois, United States of America, for purposes of any legal action arising out of or related to the use of the Sites or these Terms.
- 8.11 Independent Contractors. It is agreed that the PayDent and Provider are independent contractors, and neither is an employee, agent, or representative of the other. In no event shall any section of these Terms convey any authority to PayDent to control or interfere with the professional practice of the Provider, the staff, or the Provider/Program Participant relationships.
- 8.12 Confidentiality. PayDent and Provider agree to keep the terms and provisions of these Terms and any amendments hereto as confidential. This obligation of confidentiality, however, shall not preclude disclosure by PayDent or Provider if disclosure is required by applicable law.

By clicking "Accept" Provider hereby agrees to have entered into, and abide by, these Terms.