



OKLAHOMA MEDICAID TRIBAL PROVIDER ADDENDUM

THIS OKLAHOMA MEDICAID TRIBAL PROVIDER ADDENDUM (this “Addendum”) supplements the Provider Agreement entered into by and between LIBERTY Dental Plan of Oklahoma, Inc. (collectively with its affiliates and subsidiaries, “LIBERTY”) and _____ (“Dental Office”) a federally recognized and sovereign nation (each individually a “Party” and together, the “Parties”). Except as expressly modified by this Addendum, the Agreement remains in full force and effect and all capitalized terms in this Addendum (which are not otherwise defined) shall have the meaning ascribed to them in the Agreement. This Addendum shall become effective as of the date signed by LIBERTY (the “Effective Date”). All provisions of the Agreement and this Addendum are cumulative. All provisions shall be given effect when possible. The Parties agree as follows:

RECITALS

WHEREAS, LIBERTY and Dental Office are parties to the Agreement, whereby Dental Office performs certain Covered Services for or on LIBERTY’s behalf;

WHEREAS, LIBERTY and the Oklahoma Health Care Authority (“OHCA”) entered into an agreement (the “Contract”), whereby LIBERTY performs certain services for or on OHCA’s behalf;

WHEREAS, the Contract imposes certain contractual requirements (“Contract Requirements”) upon LIBERTY in its services for Medicaid recipients enrolled in the SoonerSelect Dental Health Plan in the State of Oklahoma (“Enrollees”);

WHEREAS, the Parties desire to clarify the downstream Contract Requirements to which Dental Office is subject under the Contract;

NOW, THEREFORE, in consideration of the mutual covenants and terms and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Term and Termination.

- a. *Term.* The Term of this Addendum shall commence upon the Effective Date and be coterminous with the Agreement, subject to the termination rights of the Parties set forth in the Agreement and this Addendum.
- b. *Termination.*
 - i. *Termination or Withdrawal by Dental Office.* In addition to any termination procedures required by the Agreement and subject to any restrictions on Dental Office’s ability to terminate as set forth in the Agreement, Dental Office shall provide written notice to LIBERTY of Dental Office’s intent to terminate the Agreement or this Addendum no less than ninety (90) days (or such longer period as otherwise required by the Agreement) prior to the effective date of such termination.
 - ii. *Termination by LIBERTY.* In addition to any termination rights it has under the Agreement, LIBERTY may terminate the Agreement and/or this Addendum upon no less than ninety (90) days’ written notice to Dental Office or, in the event LIBERTY determines that Dental Office has materially breached the Agreement or this Addendum, immediately upon written notice to Dental Office.

Notwithstanding the foregoing, as specified below, certain sections of this Addendum shall survive termination of the Agreement and/or this Addendum.

- iii. *Records.* In the event of termination of the Provider Agreement, Dental shall immediately make available to OHCA or its designated representative in a usable form any or all records whether medically or financially related to the terminated Participating Provider’s activities undertaken pursuant to the Provider Agreement and that the provision of such records shall be at no expense to OHCA.

- 2. Recordkeeping.** In addition to business records generated and received in the normal course of business and in addition to any record retention requirements for practitioner or provider licensure (to the extent applicable), Dental Office shall retain, as applicable, the following information in accordance with 42 CFR 438.3(u): enrollee grievance and appeal records in 42 CFR 438.416; base data in 42 CFR 438.5(c); MLR reports in 42 CFR 438.8(k); and the data, information, and documentation specified in 42 CFR 438.604, 42 CFR 438.606, 42 CFR 438.608, and 42 CFR 438.610 for the longer of: (a) a period not less than ten (10) years from the termination or expiration of the agreement, as amended, between LIBERTY and OHCA (the “Contract”); (b) if the records are under review or audit, until the review or audit is complete; or (c) the period provided for in 42 CFR § 438.230(c)(3)(iii) or other applicable law. Prior approval for the disposition of records must be requested by Dental Office and approved by LIBERTY if the Agreement is continuous.
- 3. Audits.** In accordance with, but not limited to, 42 CFR § 438.3(h) and/or 42 CFR § 438.230(c)(3)(iii), Dental Office acknowledges and agrees that LIBERTY, OHCA, the Centers for Medicare and Medicaid Services (“CMS”), the Comptroller General, the Office of Inspector General, the Oklahoma Attorney General’s Office (including the Medicaid Fraud Control Unit (“MFCU”)), the United States Department of Health and Human Services (“DHHS”) and DHHS Inspector General, the Oklahoma Office of Management and Enterprise Services, and their designees (“Auditors”) have the right to timely access to inspect, evaluate, and audit the premises, physical facilities, equipment, books, contracts, computer systems, all other electronic systems, records and documents (including but not limited to medical records, patient care documentation, procedures, accounting records, internal quality controls, Enrollee records, reports, clinical information, encounter data, and all other records) of Dental Office or (Dental Office’s subcontractors or first tier, downstream, and related entities) that pertain to any aspect of services or activities performed, the determination of amounts payable under the Contract, or otherwise relating to Enrollees. Further, Dental Office shall cooperate fully with any investigation by OHCA, MFCU, CMS, the DHHS Inspector General, the Comptroller General, the Aging Services Division of Oklahoma Human Services, other state or federal entities, or their designees and shall cooperate fully in any subsequent legal action that may result from such investigations. In accordance with 42 CFR 438.230(c)(3)(iii), Dental Office acknowledges and agrees that the audit rights contained in this Section 3 shall continue for ten (10) years following the later of the termination or expiration of the Contract or the date of completion of any audit.
- 4. Confidentiality; Safeguarding of Enrollee Information.** Dental Office shall be held to the same confidentiality requirements imposed on LIBERTY pursuant to the Contract, and Dental Office acknowledges that it is subject to the Nondisclosure Agreement or other confidentiality agreement entered into by and between the Parties. If required by applicable law or otherwise required by LIBERTY, Dental Office shall also enter into a Business Associate Agreement (“BAA”) and any amendment thereto, and Dental Office shall safeguard Enrollee information in accordance with the BAA, 42 CFR § 438.224, and all other applicable state and federal laws and regulations. Moreover, Dental Office agrees to the following:

 - a. Dental Office shall not use or disclose any confidential information, including social security numbers that may be supplied under the Agreement pursuant to law, and also including the identity or identifying information concerning a Medicaid recipient or services under the Agreement for any purpose not in conformity with state and federal laws, except upon written consent of the Medicaid recipient or his/her guardian. All personally identifiable information, including Medicaid information, obtained by Dental Office shall be treated by Dental Office as privileged and confidential information and shall be used by Dental Office only as authorized for purposes directly related to the administration of the Agreement. Dental Office shall ensure that patient-specific information remains confidential, is used solely for the purposes of data analysis or other Dental Office responsibilities under the Agreement, and is exchanged only for the purpose of conducting a review or other duties outlined in the Agreement.
 - b. Any patient-specific information received by Dental Office can be shared only with those agencies that have legal authority to receive such information and cannot be otherwise transmitted for any purpose other than those for which Dental Office is retained by LIBERTY. Dental Office must have in place written confidentiality policies and procedures to ensure confidentiality and to comply with all federal and state laws (including but not limited to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health (“HITECH”) Act) governing confidentiality, including electronic treatment records, facsimile mail, and electronic mail.

- c. In the event that provider-specific data are released to the public, Dental Office shall have policies and procedures for exercising due care in compiling and releasing such data that address statutory protections of quality assurance and confidentiality while assuring that open records requirements of the Oklahoma Open Records Act are met.
- d. Dental Office shall comply with the requirements of Section 163 of the Oklahoma Statutes and shall, in addition to the reporting requirements therein, report to OHCA any breach of personal information.
- e. Any releases of information to the media, the public, or other entities require prior approval from OHCA.

5. Enrollee Rights and Responsibilities. Dental Office shall abide by Enrollee rights and responsibilities denoted under the Contract between LIBERTY and OHCA, which can be found at: www.okhca.org.

6. Hold Harmless. Dental Office agrees that in no event, including, but not limited to, non-payment by LIBERTY, insolvency of LIBERTY, or breach of the Agreement, shall Dental Office bill, collect a deposit from, impose surcharges on, or have any recourse against Enrollee or a person acting on behalf of Enrollee for Covered Services provided pursuant to this Agreement. Dental Office shall accept all payments made by LIBERTY as payment in full for Covered Services provided to Enrollees, and Dental Office shall not solicit or accept any surety or guarantee of payment from Enrollee, OHCA, or the State of Oklahoma. The Agreement does not prohibit Dental Office from collecting Enrollee Cost Sharing, as specifically provided in the applicable Plan Description provided by LIBERTY and in effect at that time, or fees for non-covered services as long as the Enrollee has been informed in advance, and has acknowledged in writing, that services are not covered and that Enrollee is financially responsible for any non-covered services and as long as Dental Office has complied with any other LIBERTY policies, rules or guidelines governing non-covered services, and the amount of the Cost Sharing does not exceed the copayment allowed by OHCA. This provision will survive termination of the Agreement, regardless of the reason for termination, including the insolvency of LIBERTY, and shall supersede any oral or written agreement between Dental Office and Enrollee.

7. Third Party Liability. Dental Office agrees and acknowledges that the Medicaid program is the payor of last resort. Dental Office shall identify third party insurers or liability coverage, if any, of all Medicaid Enrollees, including Medicare of long term care insurance as applicable (collectively, “Third Party Liability”), and Dental Office shall further seek Third Party Liability payment before submitting claims to LIBERTY.

8. Database Screen and Criminal Background Check of Employees. Dental Office shall comply with all State and federal law/requirements for database screening and criminal background checks of new hires and current employees and staff who have direct contact with Enrollees and/or access to Enrollees’ Protected Health Information. Dental Office is prohibited from employing or contracting with individuals or entities that are excluded or debarred from participation in Medicare, Medicaid or any federal health care program. Dental Office is prohibited from employing or contracting with the following individuals:

- a. any individual excluded from participation in federal health care programs in accordance with 42 C.F.R. § 438.214(d)(1);
- b. an individual convicted of crimes described in § 1128(b)(8)(B) of the Act, in accordance with 42 C.F.R. § 438.808(a), 438.808(b)(2) and § 1903(i)(2) of the Social Security Act of 1935 (the “Act”);
- c. any individual or entity that is (or is affiliated with a person/entity that is) debarred, suspended, or excluded from participating in procurement activities under the Federal Acquisition Regulation (FAR) or from participating in non-procurement activities under regulation issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549, pursuant to 42 C.F.R. § 438.808(a), 438.808(b)(2), 438.610(a) and § 1903(i)(2) of the Act;
- d. any individual or entity that is excluded from participation in any Federal health care program under § 1128 or 1128A of the Act, pursuant to 42 C.F.R. §§ 438.808(a), 438.808(b)(2), 438.610(b) and 1903(i)(2) of the Act;
- e. any individual or entity that is (or is affiliated with a person/entity that is), or would provide those services through an individual or entity that is, debarred, suspended, or excluded from participating in procurement

activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulation issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549, in accordance with 42 C.F.R. §§ 438.808(a), 438.808(b)(3)(i)-(ii), 438.610(a) and § 1903(i)(2) of the Act; or

- f. any individual or entity that is excluded, or would provide those services through an individual or entity who is excluded, from participation in any Federal health care program under § 1128 or 1128A of the Act, in accordance with 42 C.F.R. §§ 438.808(a), 438.808(b)(3)(i)-(ii), 438.610(b); and § 1903(i)(2) of the Act.

Dental Office shall conduct initial screenings and criminal background checks and comply with ongoing monitoring requirements of all employees and contractors in accordance with applicable State and federal law. Dental Office shall immediately report to LIBERTY any exclusion information discovered. OHCA reserves the right to deny enrollment or terminate a Provider Agreement with Dental Office as provided under State and/or federal law.

9. Primary Care Dentist Requirements. In the event that Dental Office serves a Primary Care Dentist to Enrollees, Dental Office shall provide the following services, which may be amended by LIBERTY or OHCA:

- a. Delivering primary dental care services and follow-up care;
- b. Utilizing and practicing evidence-based dentistry and clinical decision supports;
- c. Making referrals for specialty care and other covered services and, when applicable, working with LIBERTY to allow Enrollees to directly access a specialist as appropriate for a Enrollee's condition and identified needs;
- d. Maintaining a current medical record for the Enrollee;
- e. Using health information technology to support care delivery;
- f. Ensuring coordination and continuity of care with individual providers, including but not limited to specialists;
- g. Engaging active participation by the Enrollee and the Enrollee's family, authorized representative or personal support, when appropriate, in health care decision-making and feedback;
- h. Providing access to medical care 24-hours per day, seven days a week, either directly or through coverage arrangements made with other Providers, clinics and/or local hospitals;
- i. Providing enhanced access to care, including extended office hours outside normal business hours and facilitating use of open scheduling and same-day appointments where possible; and
- j. Participating in continuous quality improvement and voluntary performance measures established by LIBERTY and/or OHCA.

10. Addendum Conflict. In the event of any inconsistent or contrary language between this Addendum and the Agreement, the Parties agree that the provisions of this Addendum shall prevail, unless otherwise required by applicable law. Notwithstanding the parent, subsidiary, or affiliate of LIBERTY which may be named in the Agreement, Dental Office acknowledges and agrees that it performs services under the Agreement on behalf of LIBERTY and all its subsidiaries and affiliates.

11. Defined Terms. Except as otherwise set forth herein, capitalized terms shall have the same meaning set forth in the Agreement.

12. Headings. The headings of the sections of this Addendum are for convenience only and may not in any way affect the meaning or interpretation of this Addendum.

13. Signatory Authority. Each of the Parties, by signing below, represents and warrants to the other Party that it has the authority to bind the named person or entity to this Addendum.

14. Counterparts. This Addendum may be executed in several counterparts (including by facsimile or by an electronic scan delivered by electronic mail) that together shall constitute a single agreement.

Agreed and Accepted by:

<Dental Office Name> (“Dental Office”):

LIBERTY Dental Plan of Oklahoma, Inc. (“LIBERTY”):

Authorized Signature

Signature

Print Name of Signatory

Print Name of Signatory

Title

Title

Date

Effective Date