



## **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (the "Agreement") is entered into by and between \_\_\_\_\_ ("Business Associate") and Abbaszadeh Dental Group, Inc. ("Covered Entity"), the parent company of Premier Access Insurance Company, Access Dental Plan and Access Dental Centers on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

The Covered Entity and Business Associate agree to modify the Agreement to comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"), and to comply with the Health Information Technology for Economic and Clinical Health Act ("HITECH").

1. **Definitions.** Capitalized terms not otherwise defined in the Agreement shall have the meanings given to them in Title 45, Parts 160 and 164 of the CFR and are incorporated herein by reference.
2. **Use and Disclosure of Protected Health Information.** Business Associate shall use and/or disclose Protected Health Information ("PHI") only to the extent necessary to satisfy Business Associate's obligations under the Agreement.  

Protected Health Information or PHI means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to 45 CFR Section 164.501.
3. **Prohibition on Unauthorized Use or Disclosure of PHI.** Business Associate shall not use or disclose any PHI received from or on behalf of Covered Entities, except as permitted or required by the Agreement, as required by law or as otherwise authorized in writing by Covered Entity. Business Associate shall comply with: (a) Title 45, Part 164 of the CFR; (b) State laws, rules and regulations applicable to PHI not preempted pursuant to Title 45, Part 160, Subpart B of the CFR or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) Covered Entity's health information privacy and security policies and procedures.
4. **Business Associate's Operations.** Under HIPAA and HITECH, PHI must be limited, to the extent practicable, to the "limited data set" or, if needed, the minimum necessary to accomplish the intended purpose. Business Associate may disclose such PHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities only if:
  - A. The disclosure is required by law; or
  - B. Business Associate obtains reasonable assurance, evidenced by written contract, from any person or organization to which Business Associate shall disclose such PHI that such person or organization shall:
    - a. Hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the person or to the person or organization as required by law; and
    - b. Notify Business Associate (who shall in turn promptly notify Covered Entity) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached.
5. **Data Aggregation Services.** Business Associate may use PHI to provide Data Aggregation Services related to Covered Entity's Health Care Operations.
6. **PHI Safeguards.** Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any PHI received from or on behalf of Covered Entity.
7. **Electronic Health Information Security and Integrity.** Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical security measures in compliance with Section 1173(d) of the Social Security Act, Title 42, Section 1320d-2(d) of the United States Code and Title 45, Part 142 of the CFR to preserve the integrity and confidentiality of all electronically maintained or transmitted Health Information received from or on behalf of Covered Entity pertaining to an individual. Business Associate shall document and keep these security measures current. Business Associate shall develop, implement and maintain policies and procedures demonstrating compliance with HIPAA and HITECH privacy and security requirements.
8. **Protection of Exchanged Information in Electronic Transactions.** If Business Associate conducts any Standard Transaction for or on behalf of Covered Entity, Business Associate shall comply, and shall require any subcontractor or agent to conduct such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162 of the CFR. Business Associate shall not enter into or permit its subcontractors or agents to enter into any Trading Partner Agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that: (a) changes the definition, Health Information condition or use of a Health Information element or segment in a Standard; (b) adds any Health Information elements or segments to the maximum

defined Health Information set; (c) uses any code or Health Information elements that are either marked "not used" in the Standard's Implementation Specification or are not in the Standard's Implementation Specification(s); or (d) changes the meaning or intent of the Standard's Implementation Specification(s).

9. **Subcontractors and Agents.** In accordance with Title 45, Part 164.502 Subpart (E), Sections 164.502(e) and 164.308(b), if applicable, Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information. Thus, Business Associate shall require each of its subcontractors or agents to whom Business Associate may provide PHI received from, or created or received by Business Associate on behalf of Covered Entity to agree to written contractual provisions that impose at least the same obligations to protect such PHI as are imposed on Business Associate by the Agreement.
10. **Access to PHI.** Business Associate shall provide access, at the request of Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an individual to meet the requirements under Title 45, Part 164, Subpart E, Section 164.524 of the CFR and applicable state law. Business Associate shall provide access in the time and manner set forth in Covered Entity's health information privacy and security policies and procedures.
11. **Amending PHI.** Business Associate shall make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to Title 45, Part 164, Subpart E, Section 164.526 of the CFR at the request of Covered Entity or an Individual, and in the time and manner set forth in Covered Entity's health information privacy and security policies and procedures.
12. **Accounting of Disclosures of PHI.**
  - A. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.
  - B. Business Associate agrees to provide Covered Entity or an Individual, in the time and manner set forth in Covered Entity's health information privacy and security policies and procedures, information collected in accordance with Section 11 (a) above, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.
13. **Access to Books and Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from or on behalf of Covered Entity available to Covered Entity and to DHHS or its designee for the purpose of determining Covered Entity's compliance with the Privacy Rule.
14. **Reporting.** In accordance with Title 45, Part 164, Subpart D, Section 164.410, Business Associate shall notify Covered Entity any use or disclosure of PHI not authorized by the Agreement, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware; in writing by Covered Entity whenever Business Associate becomes aware of such unauthorized disclosure. Business Associate shall make the report to Covered Entity's Privacy Official without unreasonable delay after Business Associate learns of such unauthorized use or disclosure. Business Associate's report shall at least: (a) identify the nature of the unauthorized use or disclosure; (b) identify the PHI used or disclosed; (c) identify who made the unauthorized use or received the unauthorized disclosure; (d) identify what Business Associate has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; (e) identify what corrective action Business Associate has taken or shall take to prevent future similar unauthorized use or disclosure; and (f) provide such other information, including a written report, as reasonably requested by Covered Entity's Privacy Official. Business Associate will handle breach notifications to individuals, the HHS Office for Civil Rights (OCR), and potentially the media, on behalf of the covered entity.
15. **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 the Agreement.
16. **Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall:
  - A. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity.
  - B. Immediately terminate the Agreement if Business Associate has breached a material term of the Agreement and cure is not possible.
  - C. If neither termination nor cure is feasible, Covered Entity shall report the violation to DHHS.

17. **Return or Destruction of Health Information.**

- A. Except as provided in Section 17(b) below, upon termination, cancellation, expiration or other conclusion of the Agreement, Business Associate shall return to Covered Entity or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. 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.
- B. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate may retain only that protected health information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - a. Return to Covered Entity or destroy the remaining protected health information that Business Associate still maintains in any form;
  - b. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as Business Associate retains the protected health information;
  - c. Not use or disclose the protected health information retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out above which applied prior to termination; and
  - d. Return to Covered Entity or destroy the protected health information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

18. **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, the Agreement shall automatically amend such that the obligations imposed on Business Associate as a Business Associate remain in compliance with such regulations.

Please complete the Attachment A Questionnaire attached to this Agreement.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf effective the date of execution.

**COVERED ENTITY**

**BUSINESS ASSOCIATE**

**Abbaszadeh Dental Group, Inc.**

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: Terri Abbaszadeh

Print Name: \_\_\_\_\_

Title: Privacy Officer

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
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**ATTACHMENT A**

**Please respond to the following questions:**

As a Business Associate, are you compliant with the Omnibus Rule that was issued in January, 2013?

Yes \_\_\_  
No \_\_\_

Will any Subcontractors be involved?

Yes \_\_\_  
No \_\_\_

Will you ensure that all Subcontractors are compliant with all safeguards that apply to Business Associates?

Yes \_\_\_  
No \_\_\_

Do you have a program for monitoring the PHI?

Yes \_\_\_  
No \_\_\_

Do you have written PHI Policies and Procedures?

Yes \_\_\_  
No \_\_\_

Do you have a Business Continuity/ Disaster Recovery Program?

Yes \_\_\_  
No \_\_\_

Have you had any breaches in the past year? If so, describe the incident below, including number of records.

Yes \_\_\_  
No \_\_\_

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