

**RISK MANAGEMENT AGREEMENT**  
**BETWEEN**  
**BLUE SHIELD OF CALIFORNIA**  
**AND**  
**COUNTY OF SAN MATEO**

1. Parties: The parties to this agreement are California Physicians' Service, a California nonprofit corporation doing business as Blue Shield of California (referred to in this agreement as "Blue Shield"), 50 Beale Street, San Francisco, California 94105 and **County of San Mateo** (referred to in this agreement as "County"), a political subdivision of the state of California, with its administrative offices located at **455 County Center, Redwood City, CA 94063**.
2. Term: The term of this agreement is **October 1, 2002** through **December 31, 2005**.
3. Purpose:
  - a. The purpose of this agreement is to provide risk management and benefit administration services to implement the terms and conditions of the **County of San Mateo Self-Funded Dental Plans** for Represented Employees and for Management Employees (referred to in this agreement as the "Plan"). The Plan is a self-funded employee dental benefit Plan sponsored by the County for the benefit of the County's eligible employees and their dependents ("Plan Participants"). The County will provide Blue Shield with current written benefit descriptions, terms and conditions of the Plan in force from time to time during the term of this agreement.
  - b. This agreement will apply to all claims under the Plan received by Blue Shield during the term of this agreement for services rendered on and after the effective date.
4. Relationship of The Parties: The County is the Plan Sponsor and Plan Administrator. Under this agreement Blue Shield will act as benefits administrator. Blue Shield is an independent contractor and Blue Shield may use employees or other subcontractors to perform Blue Shield's services under this agreement. Blue Shield is only authorized to act on the County's behalf in the administration of benefits under the Plan within the framework of the policies and rules the County has established to the extent stated in this agreement or as otherwise communicated to Blue Shield in writing. Blue Shield will notify the County if Blue Shield believes any action or inaction requested by or on the County's behalf is inconsistent with the Plan and the

County will not require that Blue Shield take or withhold such action except upon written direction from the County's properly authorized representative.

5. Service Benefits:

- a. While Blue Shield is acting as benefits administrator, Plan Participants will be entitled to receive service benefits from Blue Shield's physician members and other participating providers of care, services, supplies and equipment. Blue Shield will reimburse Participating Providers for services rendered to Plan Participants in accordance with Blue Shield's participation agreements and review as necessary the amounts allowed Participating Providers for services which are benefits of the Plan. Blue Shield's Participating Providers agree to accept Blue Shield's allowable amount along with applicable deductibles and copayments as payment in full for covered services rendered to Plan Participants.
- b. When Plan Participants receive services from participating providers of an out-of-state Blue Cross Blue Shield plan they will receive the benefit of that plan's participating provider agreements. These Blue Cross Blue Shield plans may charge Blue Shield an access fee for making their contracting provider discounts available to Plan Participants. Effective April 1, 1995, the maximum access fee allowed will be 10% of the discount (savings), up to \$2,000 per claim. An access fee may be charged even if the participating provider has not been reimbursed, for example, when a Plan Participant has not satisfied the deductible. Access fees will be included as a claims benefit expense."
- c. BlueCard Program. Under the BlueCard Program, Plan Participants will be entitled to obtain covered services from health care providers of Blue Cross and/or Blue Shield Plans outside of California. Like all Blue Cross and Blue Shield Licensees, Blue Shield participates in a program called "BlueCard." Whenever Plan Participants access health care services outside the geographic area Blue Shield serves, the claim for those services may be processed through BlueCard and presented to Blue Shield for payment in conformity with network access rules of the BlueCard Policies then in effect ("Policies"). Under BlueCard, when Plan Participants receive covered health care services within the geographic area served by an on-site Blue Cross and/or Blue Shield Licensee ("Host Blue"), Blue Shield will remain responsible to the Contractholder for fulfilling its contract obligations. However, the Host Blue will only be responsible, in accordance with applicable BlueCard Policies, if any, for providing such services as contracting with its participating providers and handling all interaction with its participating providers. The financial terms of BlueCard are described generally below.

### **Liability Calculation Method Per Claim**

The calculation of Participant liability on claims for covered health care services incurred outside the geographic area Blue Shield serves, and processed through BlueCard will be based on the lower of the provider's billed charges or the negotiated price Blue Shield pays the Host Blue.

The methods employed by a Host Blue to determine a negotiated price will vary among Host Blues based on the terms of each Host Blue's provider contracts. The negotiated price paid to a Host Blue by Blue Shield on a claim for health care services processed through BlueCard may represent:

- (i) the actual price paid on the claim by the Host Blue to the health care provider ("Actual Price"), or
- (ii) an estimated price, determined by the Host Blue in accordance with BlueCard Policies, based on the Actual Price increased or reduced to reflect aggregate payments expected to result from settlements, withholds, any other contingent payment arrangements and non-claims transactions with all of the Host Blue's health care providers or one or more particular providers ("Estimated Price"), or
- (iii) an average price, determined by the Host Blue in accordance with BlueCard Policies, based on a billed charges discount representing the Host Blue's average savings expected after settlements, withholds, any other contingent payment arrangements and non-claims transactions for all of its providers or for a specified group of providers ("Average Price"). An Average Price may result in greater variation to the Participant and Contractholder from the Actual Price than would an Estimated Price.

Host Blues using either the Estimated Price or Average Price will, in accordance with BlueCard Policies, prospectively increase or reduce the Estimated Price or Average Price to correct for over - or underestimation of past prices. However, the amount paid by the Participant is a final price and will not be affected by such prospective adjustment.

Statutes in a small number of states may require a Host Blue either (1) to use a basis for calculating Participant liability for covered health care services that does not reflect the entire savings realized, or expected to be realized, on a particular claim or (2) to add a surcharge. Should any state statutes mandate liability calculation methods that differ from the negotiated price methodology or require a surcharge, the Host Blue would then calculate Participant liability for any covered health care services in accordance with the applicable state statute in effect at the time the Participant received those services.

### **Return of Overpayments**

Under BlueCard, recoveries from a Host Blue or from participating providers of a Host Blue can arise in several ways, including but not limited to anti-fraud and abuse audits, provider/hospital audits, credit balance audits, utilization review refunds, and unsolicited refunds. In some cases, the Host Blue will engage third parties to assist in discovery or collection of recovery amounts. The fees of such a third party are netted against the recovery. Recovery amounts, net of fees, if any, will be applied in accordance with applicable BlueCard Policies, which generally require correction on a claim-by-claim or prospective basis.

#### **6. Administrative Service Charge:**

- a. In consideration of its services under this agreement, Blue Shield shall receive an administrative service charge exclusive of any brokerage or independent consultant fee.

(1) For the Dental Plan: (10/1/02-12/31/04) **\$26,167.65**; (1/1/04-12/31/04) **\$26,573.35**; (1/1/05-12/31/05) **\$26,979.05**; per month based on the projected annual average enrollment in the Plan.

(2) During each contract year, an adjustment will be made to the total annual ASC due for the year to account for any difference between the projected average monthly enrollment of **4,057** and the actual average monthly enrollment.

Example: If the actual average monthly enrollment calculated at the end of the contract year exceeds the projected average monthly enrollment by 5%, an additional charge of 5% of the total annual ASC shall be due. Conversely a credit or refund will be made to County if the actual average monthly enrollment is less than the projected monthly average enrollment.

- b. The total ASC for term of this agreement, shall not exceed (10/1/02-12/31/04) **\$392,514.75**; (1/1/04-12/31/04) **\$318,880.20**; (1/1/05-12/31/05) **\$323,748.60**; for the Plan. However, Blue Shield may adjust the monthly ASC at any time during the term of this agreement in the event of an increase or decrease in actual enrollment of 10% or more.
- c. Enrollment figures will be based on Blue Shield's Group Contract Review Report or NASCO Membership Report (or both when appropriate). Settlement will be made as soon as the necessary information is available, generally within one hundred and twenty (120) days of the end of each contract year. Any payment, refund or credit shall be due within thirty (30) days of such settlement. All payment obligations shall survive termination of this agreement.

- d. If County proposes a change in services required to administer the Plan and this materially modifies the services Blue Shield has agreed to provide under this agreement, Blue Shield will negotiate with County in good faith for an equitable adjustment to the administrative service charge stated above. Blue Shield will not be required to carry out additional services until the parties have reached agreement on such adjustment.
- e. The administrative service charge stated above does not contemplate any taxes, fees, other charges or offsets by any state or federal government which may, in the future, be assessed against Blue Shield on the basis of the benefit payments made on County's behalf under this agreement. In the event Blue Shield becomes liable for any such taxes, fees, other charges or offsets, including amounts assessed against Blue Shield under federal regulation, 42 CFR §411.24 (Medicare Secondary Payer), County agrees to reimburse Blue Shield for the amount of tax, fee, charge or offset attributable to the benefits paid on County's behalf. This obligation will survive termination of this agreement.
- f. Sixty (60) days before the expiration of the current term of this agreement, or as soon thereafter as necessary data becomes available, Blue Shield will give County notice of any change in the administrative service charge for renewal of this agreement for a subsequent term.

7. County's Responsibilities and Obligations:

- a. Authorized Representatives: County will provide Blue Shield with the names of individuals, together with the scope of their authority, who are authorized to act for County in connection with this agreement.
- b. Plan Documents:
  - (1) The Plan sponsor/Plan administrator is responsible for preparing a written document stating the benefits, terms and conditions of the Plan ("Plan Document") in force from time to time, and preparing and distributing employee booklets/summary Plan descriptions and other communications regarding the Plan to Plan Participants (including COBRA notices) Blue Shield agrees to assist County in the development of Plan Documents and employee booklets/summary Plan descriptions as set forth in the additional Blue Shield services section below.
  - (2) It is County's responsibility to provide Blue Shield with advance copies for Blue Shield's review and comment of any proposed or finalized Plan Document, employee booklets, benefit descriptions and administrative procedures insofar as they relate to Blue Shield's administrative services, practices and procedures.

- c. Benefit Changes: County agrees to provide Blue Shield with 90 days written notice prior to any change in the Plan benefits. Where mutually agreeable, changes in Plan benefits may be implemented sooner when the complete 90 days notice is not possible.
  - d. Eligibility: County will determine participant eligibility and provide Blue Shield with eligibility records. Blue Shield will be entitled to rely on the eligibility information the County provides and will not maintain or independently verify any portion of the Plan eligibility records. The County will provide Blue Shield with changes in enrollment as soon as practical in the month in which a change in eligibility occurs, but no later than the end of the following month. Changes in eligibility will be effective on the first of the month, whenever possible. Eligibility information will include new Plan Participants and effective dates of coverage, changes in types or levels of coverage for existing Plan Participants and effective dates of termination of coverage.
  - e. Plan Interpretation: As Plan Sponsor and Plan Administrator, County retains all final authority and responsibility for the Plan and its operation, including Plan policy, practices and procedures. It will be County's responsibility to interpret and construe the benefits of the Plan as necessary to assist Blue Shield in the administration of Plan benefits. Blue Shield will refer to County for consideration and final decision any class of claims which County specifies or any claim dispute or controversy not resolved through Blue Shield's administrative review procedures.
  - f. Employee Communications: County agrees to assist Blue Shield in all reasonable efforts to inform County's employees about the procedures to be followed to obtain maximum Plan benefits. In this regard County agrees to provide Blue Shield with advance copies of all employee communications regarding the Plan so that Blue Shield's customer service representatives can respond appropriately to inquiries which may result.
  - g. Claim Funding: County will be responsible for funding all claims determined to be payable benefits of the Plan in accordance with the procedures in Appendix A.
8. Blue Shield's Responsibilities And Obligations:
- a. Benefit Entitlement Determination: Blue Shield will determine a Plan Participant's entitlement to benefits claimed under the Plan in accordance with the following:
    - (1) the Plan benefits applicable to each participant, as specified in County's written Plan Document;

- (2) Blue Shield Medical Policy applicable to Blue Shield's standard underwritten business, unless County advises Blue Shield otherwise in writing. "Medical Policy" refers to those written guidelines adopted by the Blue Shield Medical Policy Committee on Quality and Technology;
  - (3) benefit cost controls, medical review standards, and other standard practices, policies and procedures used to determine benefits for Blue Shield's standard underwritten PPO benefits, unless County advises Blue Shield otherwise in writing;
  - (4) any benefits management provisions (quality and utilization management) applicable to the Plan;
  - (5) approved Individual Care Management and alternative treatment Plans;
  - (6) coordination of benefit provisions of the Plan; and
  - (7) an agreed resolution of disputed claims as provided in the Benefits Disputes or Controversy Section below.
- b. Individual Care Management:
- (1) Blue Shield is authorized to provide individual care management on behalf of Plan Participants. When appropriate for the most cost-effective use of Plan benefits for catastrophic trauma or terminal illness, Blue Shield may increase the Plan's outpatient benefits in place of inpatient benefits which would otherwise be available under the Plan ("Alternative Benefits"). Alternative Benefits shall not exceed the cost of the total benefits which would otherwise have been payable under the Plan.
  - (2) Before coverage is extended for Alternative Benefits, Blue Shield must have the patient's and attending provider's agreement on any proposed alternative treatment Plan. Blue Shield will approve any Alternative Benefits for coverage under the Plan for a specific period of time. Coverage for Alternative Benefits will not be provided in a manner which waives Contractholder's right thereafter to administer the Plan strictly in accordance with its express terms.
- c. Coordination of Benefits/Third Party Liability: Blue Shield will use Blue Shield's best efforts to coordinate benefits payable under the Plan with other benefit Plans and to identify claims for benefits which may be the liability of a third party. Blue Shield will attempt collection from other benefit Plans and third parties to the extent reasonable under the circumstances.

d. Benefit Disputes or Controversy:

- (1) Blue Shield will provide an administrative procedure for the review of denials of benefit claims and advise Plan Participants of the appropriate steps to take if they wish to submit a benefit determination for review. The Plan Participant may submit written issues and comments in support of their appeal which Blue Shield may have reviewed by an appropriate medical review committee.
- (2) Blue Shield will advise County of legal actions taken against either County or Blue Shield with respect to a claim for benefits under the Plan. Blue Shield agrees to meet and confer on an appropriate course in defense of such action and to cooperate fully with each other; however, neither County or Blue Shield shall be obligated to conduct or bear the costs of the other's defense, except as may be mutually agreed upon otherwise.

e. Overpayment of Plan Benefits:

- (1) If ministerial errors in determining benefits under the Plan are identified (that is, determinations made without the exercise of special discretion or judgment in interpretation of a Plan benefit such as calculation of deductibles), Blue Shield will adjust any underpayments and make diligent efforts to recover any overpayments using the same standard business practices and procedures used to recover overpayments for Blue Shield's underwritten business, including consideration of the cost and probability of successful recovery. In the event Blue Shield discovers fraudulent or criminal acts by health care providers or other third parties which result in overpayments, Blue Shield is authorized to enter into a settlement and release of any such claims on the same terms and conditions it settles its own claims with respect to its underwritten business. Blue Shield is authorized, but not required, to commence litigation to recover overpayments. Should such action be deemed appropriate, Blue Shield will notify the County of its intent to do so.
- (2) If a specifically identified overpayment(s) was (the result of a) fraudulent or criminal, or was caused by Blue Shield's intentional disregard of Blue Shield's obligations under this agreement without County's direction to do so, then Blue Shield will:
  - (a) refund to County any specifically identified unrecovered overpayments made directly to Providers; and
  - (b) refund to County any specifically identified unrecovered overpayment made to Plan Participants provided County has cooperated with Blue Shield's recovery efforts by making at least two written demands for repayment on the Plan Participant.



- f. Section 504 Compliance: Blue Shield hereby agrees, to the extent applicable to Blue Shield, that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements and all guidelines and interpretations issued pursuant thereto.

Blue Shield recognizes and agrees that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on Blue Shield, its successors, transferees, and assignees, and the person or persons whose signature appears in execution of this Agreement on behalf of Blue Shield.

Blue Shield employs 15 or more persons and pursuant to section 84.7(a) of the regulation (45 C.F.R. 84.7(a)), has designated the following person to coordinate its efforts to comply with the H.H.S. regulation:

Name: Pat Boone

Title: Vice President, Corporate Human Resources

- g. Worker's Compensation and Employer Liability Insurance: Blue Shield shall have in effect during the life of this Agreement, workers' compensation and Employer Liability Insurance providing full statutory coverage. Blue Shield hereby makes the following certification required by Section 1861 of the California Labor Code:

Blue Shield is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Code, and will comply with such provisions before commencing the performance of the work of this Agreement.

- h. Liability Insurance: Blue Shield shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by the agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Blue Shield's operations under this Agreement, whether such operations be by Blue Shield or by anyone directly or indirectly employed by Blue Shield. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below:

- (1) Comprehensive General Liability.....\$1,000,000
- (2) Professional Liability (Errors and Omissions).....\$1,000,000

After three (3) years from the effective date of this agreement the County may at its sole discretion, require an increase in the amount of liability insurance to the level then customary in similar County agreements by giving sixty (60) days written notice to Blue Shield. The County and its officers, agents, employees and servants shall be named as additional insured on Blue Shield's comprehensive general liability policy which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limit of liability of the policy, and that if the County or its officers and employees have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County at its option, may notwithstanding any other provision of this agreement to the contrary, immediately declare a material breach of this agreement and suspend all further work pursuant to the agreement.

9. Funding of Benefits:

- a. County agrees to fund all benefits Blue Shield determines payable under the Plan during the term of this agreement. This obligation will survive termination or expiration of this agreement for all claims payments issued by Blue Shield on County's behalf. In regard to the funding of benefits Blue Shield provides administrative claims payment services only and does not assume any financial risk or obligation with respect to claims. Blue Shield has agreed on banking arrangements or other mechanism for routine funding of benefit payments as described in Appendix A.
- b. If County makes or withholds employee contributions to coverage under the Plan County will hold such contribution as a Plan fiduciary, solely for the funding of benefits under the Plan. Blue Shield will refund unclaimed benefits to County as a Plan fiduciary, for the account of the Plan pursuant to the forfeiture provisions of the Plan.
- c. In the event County becomes insolvent, avails itself of the protection of the Federal Bankruptcy Act, or Blue Shield has a reasonable belief that either of these events are imminent, Blue Shield may request adequate assurance from County of County's ability to meet its financial obligations to Blue Shield and Blue Shield's participating health care providers. If such assurances are not furnished to Blue Shield within ten (10) days, or are not satisfactory in Blue Shield's reasonable judgement, Blue Shield may immediately terminate this agreement. Until such assurance is received, Blue Shield will only provide conditional pre-authorization for services under the Plan. Blue Shield will not be required to extend any credit on County's behalf and will only disburse claims

payments following actual receipt of adequate funds to cover such payments. County agrees to take necessary action to assume or reject this agreement within 30 days from the filing of any action for relief under Chapter 11 of the Federal Bankruptcy Act. Should County fail to take such action, Blue Shield may, at Blue Shield's discretion, terminate this agreement.

10. Additional Blue Shield Services:

a. Plan Document and Employee Booklet Development:

- (1) Based on the eligibility and benefit information County has provided, Blue Shield will draft a Plan Document and summary descriptions of benefits (employee booklets) for Plan Participants using Blue Shield's standard contract language. County is responsible for reviewing these draft documents and determining to County's satisfaction that these documents meet all of County's legal and business obligations and advising Blue Shield of any necessary revisions. Blue Shield will require County to ratify the terms, conditions and benefits prior to release of the final documents.
- (2) The fee for printing employee booklets is \$2.50 per booklet. There will not be charges for minor revisions, but Blue Shield may charge for substantial revisions to the Employee Booklet which County requests after County has accepted the draft document.

b. Identification Cards: Blue Shield will prepare and issue paper identification cards for County's eligible employees. Blue Shield may design a unique identification card for County's Plan.

c. Plan Reports: Blue Shield will provide County with monthly Detailed Claims Report, and mutually agreed upon Plan management and utilization reports, copies of which shall be attached to this agreement as Appendix B. All reports shall be subject to applicable confidentiality of medical information and privacy laws. Upon request customized or ad hoc client reports may be provided for an additional charge.

11. General Provisions:

a. COBRA Administration: As Plan Administrator, County will be responsible for billing and compliance with other administrative requirements of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272 ("COBRA"), as amended, and will notify Blue Shield of qualified beneficiaries eligible to participate under the Plan pursuant to COBRA.

b. Maintenance of Records:

- (1) Blue Shield will keep records for each transaction and claimant under the Plan as follows: Blue Shield will keep paper records for the period Blue Shield has determined appropriate for maintenance of claim transactions for Blue Shield's standard underwritten business; computer records on line for twenty-four (24) months; and microfiche or other format that can be reproduced into hard copy for seven (7) years.
- (2) Blue Shield will not be required to release individually identifiable medical information regarding Plan Participants without County's warranty that County has established procedures which ensure appropriate safeguards against unauthorized disclosure or use of such information and that the information will be used solely for the purposes allowed in the California Confidentiality of Medical Information Act, the California Insurance Information and Privacy Protection Act and the US Public Health Service Act and other applicable privacy laws.
- (3) If this agreement is terminated Blue Shield will provide County with records Blue Shield has which are reasonably required for subsequent administration of the Plan in Blue Shield's standard format for maintenance of records. Notwithstanding the foregoing, County understands and accepts that Blue Shield's provider allowances and negotiated rates are confidential trade secret information which will not be released upon termination of this agreement.

c. Audit:

- (1) During the term of this agreement County may inspect and audit benefit payment records relevant to Blue Shield's services under this agreement with 30 days prior written notice and request for such records. Any examination of individual benefit payment records will be carried out in a manner agreed to by the parties and designed to protect the confidentiality of individual medical information.
- (2) Benefit payment audits may be conducted by County's audit staff or by an independent contractor employed at County's expense who may be either a Certified Public Accountant or otherwise professionally qualified to perform such auditing services. Blue Shield is not required to allow access for the purpose of an audit to any individual Blue Shield reasonably believes is likely to misuse or misappropriate information which may be available in the course of an audit as a result of a conflict of interest or otherwise or any independent consultant whose compensation for performing such an audit is contingent on or otherwise wholly or partially based on the audit findings.

- (3) For the purpose of comment on operational performance, sampling Plans, selection techniques and other audit protocols will be based on generally accepted audit standards selected to achieve verifiable, statistically valid results.

12. Indemnification Agreements:

- a. In performing services under this agreement, Blue Shield shall act with reasonable and ordinary care for a prudent benefits administrator acting under the circumstances then prevailing.
- b. Blue Shield agrees to indemnify, defend and hold County, County's officers and employees harmless for any claims, lawsuits, settlements, judgments, costs, penalties and expenses, including reasonable attorneys' fees, in proportion to and to the extent caused by the negligence or willful misconduct of Blue Shield's employees in the performance or non-performance of Blue Shield's obligations under this agreement. Notwithstanding the preceding indemnification, the Overpayment of Plan Benefits Section above sets forth the exclusive remedy for ministerial errors in benefit determinations.
- c. County agrees to indemnify, defend and hold Blue Shield, Blue Shield's officers, and employees harmless for any claims, lawsuits, settlements, judgments, costs, penalties, and expenses, including reasonable attorneys' fees, in proportion to and to the extent caused by the negligence or willful misconduct of County's officers and employees in the performance or non-performance of County's obligations under this agreement. Notwithstanding the preceding indemnification, the exclusive remedy for ministerial errors by the County is payment of an amount equal to the amount payable for the contract on which the error was made.
- d. If the indemnifying party fails to assume the defense of a claim subject to indemnification, the party claiming indemnification may assume defense of the claim with the right to defend, settle or compromise the claim in its sole discretion, at the sole expense and liability of the indemnifying party. If a dispute arises between the parties as to whether a claim is subject to indemnification under this section, it must be settled pursuant to the Dispute Resolution provisions below.

13. Termination:

- a. This agreement may be terminated:
  - (1) on the date of discontinuance of the Plan;

- (2) with five (5) days prior written notice for failure to provide sufficient funds for claim payments as required under this agreement unless such funds are paid in full before such date;
    - (3) with thirty (30) days prior written notice for breach of any other material obligation under this agreement (including timely payment of Administrative Service Charges) provided such breach has not been cured within the 30 day period; or
    - (4) on any date mutually agreed upon between the parties.
  - b. Services under this agreement apply only to benefits administered or claims Blue Shield actually receives during the term of this agreement. Following termination Blue Shield will complete the processing of all claims in Blue Shield's possession on the date of termination and prepare benefit payments to the extent of benefit funds County has provided. Blue Shield will also complete the processing of recoveries and adjustments of erroneous payments.
  - c. With the exception of termination for non-payment, Blue Shield is willing to administer claims incurred during the term of this agreement but received after termination ("Run-out Claims") subject to mutual agreement as to the services to be performed and the applicable administrative service charge.
14. Interpretation and Applicable Law: The subject headings and sections used in this agreement are for reference and convenience only and are not to be used for the interpretation of this agreement. The parties have negotiated this agreement at arm's length and it is not to be construed against either of the parties. This agreement will be governed by the laws of the State of California.
- 14.1. Non-Discrimination: See attached Appendix C.
15. Amendments: This agreement constitutes the entire agreement between the parties concerning the matters discussed herein. This agreement may only be amended by the parties written mutual agreement.
16. Assignment: Assignment of this agreement by either of the parties will only be valid with the written consent of the other.
17. Third Party Beneficiaries: This is an agreement for administrative services only and is for the sole and exclusive benefit of the parties. It is not intended and does not confer any benefits on third parties, with the exception of Blue Shield's participating providers who are intended beneficiaries of the County's obligation to fund all claims incurred under the Plan.

18. Dispute Resolution:

- a. Neither party shall bring a lawsuit or other proceeding of any character in any court to settle any dispute arising out of or relating to this agreement except to compel mediation or arbitration or to enforce the settlement or judgment resulting from such proceeding. If a dispute or controversy arises between the parties out of or relating to this agreement, the parties agree to submit the dispute to mediation with a neutral third party mediator mutually agreed upon by the parties. Either party may initiate mediation proceedings by advising the other in writing setting forth the nature of the dispute. The mediation provisions of this agreement may be enforced by any court of competent jurisdiction in the same manner as a petition for arbitration.
  - b. If mediation fails to resolve the dispute, upon written demand by either party, the dispute or controversy must be settled by arbitration conducted by an Arbitrator(s) mutually selected by the parties and judgment upon the award rendered by the Arbitrator(s) may be entered by any court having jurisdiction. The arbitrators will have no authority to award punitive damages or any other damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this agreement.
19. Waivers: Failure by either of the parties to enforce any term of this agreement is not to be construed as a waiver.
20. Notices: All notices and other communications under this agreement will be in writing and will be deemed to have been duly given when delivered by U.S. Mail, postage prepaid, by certified mail, return receipt requested, and addressed as follows:

If to County of San Mateo:	If to Blue Shield:
Employee and Public Services	Blue Shield of California
Department	50 Beale Street
455 County Center	San Francisco, CA 94105
Redwood City, CA 94063	Attn: Senior Vice President
Attn: Paul Hackleman, Benefits Mgr.	Large Group Sales

or, at such other place as either of the parties, from time to time, designates by written notice to the other.

In witness of this agreement County of San Mateo and California Physicians' Service will have this agreement signed in duplicate by their respective officers properly authorized to act on their behalf. Payment of administrative service fees by and acceptance of Blue Shield's performance hereunder by County shall be deemed to constitute the County's acceptance of the terms hereof, whether or not this Agreement is signed by the County.

CALIFORNIA PHYSICIANS' SERVICE

d.b.a. BLUE SHIELD OF CALIFORNIA

By: Chris Bettina

Title: VP, Sales

Date: 9-11-02

COUNTY OF SAN MATEO

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

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

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



**APPENDIX A**  
**TO THE**  
**RISK MANAGEMENT AGREEMENT**  
**BETWEEN**  
**BLUE SHIELD OF CALIFORNIA**  
**AND THE**  
**COUNTY OF SAN MATEO**  
**FUNDING OF BENEFIT PAYMENTS**

1. Funding Method:

Blue Shield will notify County by telephone of the dollar amount of benefit claims which have been processed and County will deposit by wire transfer this amount to Blue Shield's account with Bank of America (#1499-9-05524). When County is notified before 11:30 a.m. (Pacific time), the deposit will be made on the same day. If the notification is received after 11:30 a.m. (Pacific time), the deposit is due on the next working day. Blue Shield will follow the telephone notification with written confirmation by mail.

2. Late Payment Fee: If County fails to provide funds to Blue Shield in accordance with this schedule, Blue Shield may, at Blue Shield's sole discretion, issue benefit payments and charge County a fee calculated as the amount of the late reimbursement multiplied by the Bank of America prime rate plus 1% multiplied by the number of late days divided by 365.

3. Escheatment: Blue Shield will prepare in Blue Shield's standard format summaries of checks (including the amounts thereof) drawn, paid, voided, canceled and not presented for payment, including any special reports of uncashed checks required to comply with applicable forfeiture provisions of the Plan or abandoned property laws.

**APPENDIX B**  
**TO THE**  
**RISK MANAGEMENT AGREEMENT**  
**BETWEEN**  
**BLUE SHIELD OF CALIFORNIA**  
**AND THE**  
**COUNTY OF SAN MATEO**  
**NON-DISCRIMINATION**

Non-Discrimination No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to: i) termination of this Agreement; ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to three (3) years; iii) liquidated damages of \$2,500 per violation; iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to: i) examine Contractor's employment records with respect to compliance with this paragraph; ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

**APPENDIX C**  
**TO THE**  
**RISK MANAGEMENT AGREEMENT**  
**BETWEEN**  
**BLUE SHIELD OF CALIFORNIA**  
**AND THE**  
**COUNTY OF SAN MATEO**  
**NON-DISCRIMINATION**

Non-Discrimination No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to: i) termination of this Agreement; ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to three (3) years; iii) liquidated damages of \$2,500 per violation; iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

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