

Provider Agreement

THIS Provider Agreement ("Agreement"), effective this ____ day of _____, 20____, by and between **Avesis Third Party Administrators, Inc.** ("Avesis") and _____, (hereinafter referred to as Provider);

WHEREAS, Avesis arranges for the delivery of dental services to eligible Members of healthcare plan(s), employer group(s), association(s), government payors including Medical Assistance, Medicare and CHIP as well as other Sponsors contracting with Avesis;

NOW, THEREFORE, in consideration of the above and the promises hereinafter contained, the parties hereby agree as follows:

A. DEFINITIONS.

- (1) Claim - A request for payment submitted by Provider electronically or on an approved claim form.
- (2) Clean Claim – A request for payment for services rendered which has no defect or impropriety. A defect or impropriety shall include lack of required substantiating documentation or a particular circumstance requiring special treatment which prevents timely payment from being made on the claim. Claims under investigation for fraud or abuse or under review to determine medical necessity are not Clean Claims.
- (3) CMS – CMS is the Centers for Medicare and Medicaid Services.
- (4) Covered Benefits – Benefits that are covered under the terms of the applicable Sponsor's plan, subject to the limitations and exclusions of such Plan.
- (5) Dental Emergency/Emergency Medical Condition – A situation requiring the Member to seek immediate attention for the relief of pain or repair necessitated due to a severe injury or dental problem. Due to the Member's condition, the services must be rendered immediately in a dental office or a hospital setting. Unless specifically otherwise defined in an applicable Attachment hereto or Federal or State law or regulation, Emergency Medical Condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, should reasonably expect the absence of immediate medical attention to result in:
 - (a) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
 - (b) serious impairment to bodily functions;
 - (c) serious dysfunction of any bodily organ or part.
- (6) Dentist Provider – A doctor of dentistry duly licensed and qualified under the applicable laws of the jurisdiction where services are being rendered who practices as an employee of the Provider. Dentist Provider(s) who are participating under this Agreement are listed on the signature page of this Agreement.
- (7) HIPAA – HIPAA is the Health Insurance Portability and Accountability Act.
- (8) Member - An individual who is eligible to receive Covered Benefits.

- (9) Medical – As used herein, Medical or Medically refers to dental services provided under this Agreement.
- (10) Medically Necessary – Except as otherwise defined in the Attachments entitled Medicare, Medical Assistance and CHIP Product Regulatory Requirements or by the applicable State or Federal agency Medically Necessary is defined as services or supplies provided by Participating Provider that are determined to be:
- a. appropriate for the symptoms and diagnosis or treatment of the Member's condition, illness, disease or injury; and
 - b. provided for the diagnosis, or the direct care and treatment of the Member's condition, illness, disease or injury; and
 - c. provided in accordance with standards of good medical/dental practice and consistent in type, frequency and duration of treatment with scientifically based guidelines from medical research or health care coverage organizations or governmental agencies that are accepted by Sponsor and Avesis; and
 - d. not provided as a convenience.

Avesis reserves the right to determine in its judgment whether a service is Medically Necessary. No benefits hereunder will be provided unless Avesis determines that the service or supply is Medically Necessary. Authorization decisions shall be made by Avesis with input from the Member's Participating Provider, or other health care provider providing service at the direction of the PCP, constituting proof of Medical Necessity for purposes of determining the Member's potential liability.

- (11) Necessary Treatment – Treatment that has been determined by the treating dentist to be necessary for the appropriate dental care of a Member and may be limited by the services covered in the Avesis Covered Benefits.
- (12) Participating Provider - the individual, partnership or other entity who is licensed by the Commonwealth of Pennsylvania or other state, has met the Avesis credentialing standards and has entered into a written Agreement with Avesis to provide dental services to eligible members.
- (13) Provider Manual – The written document made available on the Avesis website or provided to the Provider by Avesis that describes the administrative policies and procedures established by Avesis for the provision of Covered Benefits to Members. The Provider Manual may be amended from time to time and the terms of which are hereby expressly incorporated by reference into, and as a part of, this Agreement.
- (14) Sponsor - An HMO, insurer, employer, managed care organization or other entity that has entered into an agreement with Avesis to provide Covered Benefits and who has been identified in Attachment A of this Agreement.
- (15) Usual and Customary Fee – The fee charged by Participating Provider to private paying patients for the same procedure or service during the same period of time.

B. TERM.

The term of this Agreement shall be for a period of one (1) year effective on the date first above written and ending on the date one year subsequent to the Effective Date ("Initial Term"). Upon expiration of the Initial Term, this Agreement will automatically renew for successive one-year periods (each one-year period a "Renewal Period" and the Initial Term and all Renewal Periods, if any, referred to collectively herein as the "Term"), unless otherwise terminated by either party in accordance with the terms of this Agreement.

C. RESPONSIBILITIES OF AVESIS.

- (1) Sponsor Contracts. Avesis will enter into agreements with employers, corporations, insurance carriers and other organizations whose Members may obtain Covered Services from Avesis participating providers. The Sponsor(s) set forth in Attachment A hereto shall be the only Sponsor(s) for which the Participating Provider will be participating. No other Sponsor shall be added to said Agreement without written notice to Participating Provider.
- (2) Covered Benefits and Fee Schedule. Avesis shall provide a listing of all Covered Benefits and Fee Schedule in the Provider Manual.
- (3) Participating Provider Information. Avesis shall make available to Members, through the Avesis and/or the Sponsor's website or through a toll-free customer service telephone number, the names, addresses, phone numbers and specialties of all of the Participating Providers who agree to participate under each Sponsor's plan.
- (4) Member Eligibility Verification. Participating Provider shall verify eligibility through the Avesis website or by calling either the Avesis IVR system or Avesis Customer Service Department. Avesis shall update Member eligibility from data received from the Sponsor on a regular basis. Participating Provider may obtain eligibility information using the HIPAA compliant 270/271 electronic transaction set.
- (5) Provider Manual. Avesis shall make available to Provider the Avesis Provider Manual ("Provider Manual") for use during the term of this Agreement. Participating Provider agrees to comply with the contents of the Provider Manual as well as the policies and procedures set forth in the Provider Manual, as it may be revised by Avesis from time to time. The Provider Manual shall be kept confidential and shall not be copied or disclosed to third parties except as required for the conduct of the Participating Provider's business as it relates to this Agreement. Participating Provider shall be given at least thirty (30) calendar days written notice of revisions to the Provider Manual. The Provider Manual is incorporated herein by reference and the terms of this Agreement shall control the interpretation of the Provider Manual.
- (6) Payment Processing. Avesis shall transmit payments to Participating Provider on a timely basis in accordance with the state's prompt pay laws as set forth in 40 P.S. Section 991.2166 and PA Code 154.18 or Federal guidelines, as applicable, and the terms and conditions of this Agreement. Payment for Clean Claims submitted for the provision of services to a Member enrolled in a non-Medical Assistance or non-Medicare Product shall be made within forty-five (45) days of receipt. Clean Claims submitted for the provision of services to Members enrolled in the Medical Assistance or Medicare Products shall be made within thirty (30) days of receipt. For non-Medicare Products, in the event that payment for a Clean Claim is not made within forty-five (45) days of receipt of the claim, interest at ten per centum (10%) per annum shall be added to the amount owed on the Clean Claim. Avesis shall not be required to pay interest that is calculated to be less than two dollars (\$2.00). For interest paid on clean claims for Members enrolled in the Medicare Product, the rate shall be that set forth by the United States Secretary of the Treasury, as published in the Federal Register.
- (7) Regulatory Compliance. Avesis shall establish and enforce policies and procedures designed to ensure Avesis' and Participating Provider's continued compliance with applicable provisions of State, Federal and CMS regulations, as well as HIPAA, applicable provisions of the Americans with Disabilities Act, the American Recovery and Reinvestment Act of 2009 and the Department of Labor. For Medical Assistance programs Avesis complies with all applicable state policies and procedures for the delivery of dental services to eligible members.

D. RESPONSIBILITIES OF PARTICIPATING PROVIDER.

- (1) Professional Services. Participating Provider shall be properly licensed as a dentist in the jurisdiction where services are provided and shall ensure that all dental services rendered are consistent with professionally recognized standards of practice.
- (2) Appointments. Services shall be provided to Members in a timely fashion with appointments for routine care being available within fifteen (15) business days of the Member's request for an appointment during normal business hours. If Participating Provider has closed the office to accepting new Members, Participating Provider must notify Avesis in writing at least five (5) business days prior to closing the office and such closure shall be effective the first day of the month following receipt of notification. Participating Provider shall not deny services to nor refuse to make an appointment for a Member during the Medical Assistance Fee for Service eligibility window prior to the effective date of the Member's enrollment into the Managed Care Program. Furthermore, if applicable, Participating Provider shall serve on interagency teams in order to provide services to Members.
- (3) Reporting. In lieu of Participating Provider submitting quarterly reports stating average wait times for Members, Avesis shall randomly telephone Participating Provider to ascertain said information.
- (4) Urgent/Emergency Dental Condition. In the case of a Dental Emergency, participating provider shall provide Emergency Medical Condition appointments immediately upon referral. In the case of an Urgent Medical Condition, appointments must be provided within twenty-four (24) hours of the referral. For weekend Dental Emergencies, Participating Provider and/or Dentist Participating Provider(s) shall have an answering service or cell phone number available for contact. Avesis shall permit treatment of Dental Emergency for Member without prior authorization. However, elective dental services, not necessary for the relief of pain and/or prevention of immediate damage to dentition shall fall under standard Pre-Treatment/Prior Authorization estimate procedures.
- (5) Payment from Members. Participating Provider agrees to charge and accept as payment in full only the compensation as set forth in the Addendum to this Agreement for dental services provided or in any updates that may later be agreed to by the Participating Provider. Participating Provider may not collect any payment from Members other than those designated in the Covered Benefits Schedule as being the responsibility of Members, such as deductibles, co-payments, and charges for additional services not specified on the Covered Benefits Schedule. Any charges to Members for non-Covered Services shall not exceed the Participating Provider's usual and customary fee for that dental service. The Members may not be balanced billed for covered services denied.
- (6) Records. Participating Provider shall maintain confidential and complete Member medical records and personal information as required by applicable State and Federal laws and regulations including, but not limited to Section 2131 of the Pennsylvania Quality Health Care Accountability and Protection Act of 1998, the Health Insurance Portability and Accountability Act (HIPAA) and its implementing regulations and the terms of this Agreement. Participating Provider agrees that Members shall have access to their medical records at no charge and upon request. In the event that a Member disenrolls from Sponsor or transfers to a new Participating Provider, Participating Provider shall cooperate in the transfer of all applicable medical records and information to the new provider. Notwithstanding the termination of this Agreement, the Participating Provider will retain Member records and radiographs for a period of not less than ten (10) years and, for services rendered to minors, for seven (7) years after the date on which the minor reaches the age of majority or such other period as may be set forth in applicable law.

- (a) Confidentiality of Records. Confidentiality of Member records and personal information shall be maintained in accordance with all applicable State and Federal laws in force as of the effect date of this Agreement and those that may be enacted in the future. Participating Provider shall not use any information received in the course of providing services to Members except as necessary for the proper discharge of his/her obligations hereunder. Participating Provider agrees to comply with all of the applicable federal requirements for privacy and security of health information as set forth in HIPAA and the American Recovery and Reinvestment Act of 2009.
- (b) Records Access. Participating Provider agrees that Avesis, its agents or representatives, and/or representatives or agents of CMS, the Insurance Department, Pennsylvania Department of Health and the Pennsylvania Department of Public Welfare shall have access during normal business hours or through the mail to billing and complete Member records for Members for whom care has been rendered by the Participating Provider for the purpose of quality assurance, investigation of complaints or grievances, enforcement or other activities related to compliance with Pennsylvania Quality Health Care Accountability and Protection Act of 1998, its implementing regulations and any other applicable State and Federal laws and regulations. Such access shall be limited to those employees and agents of the above listed entities who have direct responsibility under the previous provision.

Notwithstanding termination of this Agreement, this right of access to Member records shall continue for a period of five (5) years after termination of this Agreement, to the extent permitted by law. Participating Provider further agrees to make copies of such records available to the Sponsor, Department of Public Welfare, CMS and/or appropriate government authority in conjunction with its regulation of Sponsor and to cooperate with any and all reviews and/or audits by state or federal agencies or their agents such as the Independent Assessment Contractor by assuring that appropriate personnel is available for interviews relating to the audits. If records are requested to be provided by mail, such request should be fulfilled within fifteen (15) calendar days.

- (7) Compliance with Law, Policies and Procedures and Provider Manual. Participating Provider shall, at all times, conduct his professional practice and supervise all personnel in a manner that complies with all applicable laws, regulations, Policies and Procedures of Avesis as set forth in the Provider Manual, as amended from time to time, and Policies and Procedures of the Sponsor(s), as applicable. Participating Provider shall maintain in good standing and keep current all of the permits, certificates and licenses required by all applicable State and government laws and regulations in order to provide Dental Services under this Agreement. In the event of any complaint or disciplinary or administrative action against Participating Provider, regardless of whether such complaint or disciplinary action is based on services provided under this Agreement, Participating Provider shall notify Avesis of the complaint or disciplinary action within two (2) business days of Participating Provider's receipt of notice of such action or complaint. Participating Provider hereby authorizes any governmental agency to release to Avesis information relating to any such complaint or disciplinary action. Participating Provider agrees to comply with all applicable federal and state laws including, but not limited to those relating to non-discrimination and equal opportunity.
- (8) Cultural Competency Plan. Participating Provider agrees to comply with the Avesis Cultural Competency Program, available for review on the Avesis website.
- (9) Credentialing Program. Participating Provider agrees to meet and maintain NCQA and/or established industry standards for Participating Provider credentialing adopted by the Avesis Credentialing Program as well as any other requirements that may be imposed by the Sponsor, from time to time. These include, but are not limited to, current licensure; current certifications, as appropriate; professional liability insurance coverage; compliance with continuing education

requirements; and such other requirements and qualifications as may be required by Avesis, Sponsor or any State or Federal agency. Failure to cooperate with the credentialing or recredentialing process may result in payment for services rendered being withheld until all recredentialing materials have been received by Avesis. Participating Provider further agrees to notify Avesis of subsequent changes in status of any information relating to Participating Provider's professional credentials.

None of Avesis' or Sponsor's utilization management, quality management, credentials verification or provider sanction programs shall either a) override the professional or ethical responsibility of the provider or b) interfere with the provider's ability to provide information or assistance to members.

- (10) Dental Director / Quality Assurance. Participating Provider acknowledges that Avesis shall have a Dental Director who is a licensed dentist and who will be responsible for the resolution of professional issues and supervision of the clinical aspect of the Quality Assurance program. Participating Provider agrees to respond to and/or comply with the Avesis Dental Director and the Quality Assurance Program as it relates to quality assurance, utilization review and Member grievances, as explained in the Avesis Provider Manual.
- (11) Personnel and Office Address. Participating Provider shall provide Avesis with a complete list of all Dentist Provider(s) and the necessary information for credentialing each of those dentists with whom Participating Provider practices and who shall be governed by this Agreement. If any Participating Provider has independent dental practices, said Participating Provider must execute a separate Dental Provider Agreement before providing any Dental Services under this Agreement. Participating Provider shall not employ or subcontract with individuals on the State or Federal Exclusions list. Participating Provider shall notify Avesis within thirty (30) days of any relocation of his/her practice change in area code or telephone number; or any change in the Dentist Provider(s) practicing with Participating Provider. New Dentist Provider(s) must be credentialed prior to rendering services to Members. Providers who are independent contractors working at the Participating Provider's location or with Participating Provider, must execute separate Provider Agreements and be credentialed with Avesis. Participating Provider agrees to the inclusion of information about the practice and its location on the Avesis website and/or the Plan Sponsor's website. Participating Provider further agrees to permit practice location and contact information to be given to Members by Avesis' or Sponsor's customer service representatives.
- (12) Locum Tenens. A Participating Provider may submit a claim and receive payment for Covered Benefits (including emergency visits and related services) for a Locum Tenens dentist who is not an employee of the Participating Provider and whose services for Members of the Participating Provider are not restricted to the Participating Provider's offices if: 1) the Participating Provider is unavailable to provide the Covered Benefits; 2) the Member has arranged or seeks to receive the Covered Benefits from their Participating Provider; 3) the Participating Provider may pay the Locum Tenens for his/her services on a per diem basis or similar fee for time basis; 4) the Locum Tenens provider does not provide the Covered Benefits to Members for a period of time not to exceed sixty (60) continuous days within a twelve (12) month period. The Locum Tenens provider shall have a valid NPI number. If the Member is participating in a Medical Assistance program, the Locum Tenens provider shall have a valid State Medical Assistance number. It is the responsibility of the Provider to notify Avesis in writing of any Locum Tenens arrangement.
- (13) Specialty Referrals. Participating Provider acknowledges that certain dental services may require referral to a Specialty Dentist. If that is necessary, Participating Provider agrees to follow the Specialty referral guidelines as defined in the Avesis Provider Manual.

- (14) Pre-Treatment/Prior Authorization. Participating Provider acknowledges that certain dental services may require Pre-Treatment/Prior Authorization. If that is necessary, Participating Provider agrees to follow the Pre-Treatment/Prior Authorization referral guidelines as defined in the Avesis Provider Manual, except in emergency situations as described in Section D, herein.
- (15) Submission of Claims. Participating Provider shall submit Claims to Avesis in a timely manner as described in Section G. Participating Provider understands that failure to submit Clean Claims or requested documentation within the specified time period as outlined in the Provider Manual may result in loss of reimbursement for services provided.
- (16) Non-discrimination. Participating Provider shall not discriminate in the treatment or quality of services provided to Members on the basis of race, religion, creed, color, sex, age, national origin, ancestry, marital status, sexual orientation, language, Medicaid status, health status, disease or pre-existing condition, anticipated need for health care or physical or mental handicap, except where medically indicated.. Participating Provider and/or Dentist Participating Provider(s) agree to comply with all applicable federal and state laws relating to non-discrimination and equal opportunity.
- (17) Policies and Procedures. Participating Provider agrees to comply with Avesis rules and regulations and all Avesis policies and procedures as set forth in the Provider Manual.
- (18) Medical Assistance and NPI Number. Participating Provider shall have his or her own distinct Medical Assistance number if providing Medical Assistance services and shall have obtained his/her National Provider Identification number (NPI) from CMS, in accordance with the HIPAA rules effective in 2007.
- (19) Incentive Plan. Participating Provider shall annually disclose to Avesis and/or Sponsor, any Incentive Plan or risk arrangements in force with physicians, dentists or dental specialists (“physicians”) either within its group practice or other physicians not associated with the group practice even if there is no substantial financial risk between Avesis or Sponsor and the physician or physician group.
- (20) Member Complaints and Grievances. Participating Provider shall cooperate with Avesis and/or Sponsor in the implementation of Member complaints and grievance procedures and assist Avesis and/or Sponsor in taking appropriate corrective actions engendered by any such procedure. Participating Provider shall cooperate with Members in all complaints and grievance proceedings and shall comply with all final determinations made by Avesis and/or Sponsor pursuant to such complaint and grievance procedure. Participating Provider shall notify Avesis and/or Sponsor promptly of any Member complaints or grievances known by Participating Provider.

E. RELATIONSHIP OF PARTIES.

- (1) Professional Judgment. Participating Provider shall have the sole right and responsibility for determining treatment and administering care. Nothing in this Agreement shall be construed to interfere with the Provider/Member relationship or limit Participating Provider from discussing treatment, non-treatment or alternative treatment options with Member that may not reflect the Sponsor’s position or may not be covered by the Sponsor. Nothing in this Agreement shall be construed to limit Participating Provider from acting within the lawful scope of practice, from advising or advocating on behalf of a Member for the Member’s health status, medical care or non-treatment options, including any alternative treatments that may be self-administered with the Member or providing information that Participating Provider believes is necessary to provide to the Member concerning the nature of health care of the Member; nor shall the Participating Provider be required to provide coverage, counseling or referral service if Participating Provider objects to the provision of such services on moral or religious grounds. Nothing in this Agreement shall limit or prohibit Participating Provider from advocating on behalf of the Member

in any grievance system, utilization review process or individual authorization process to obtain necessary health care or Covered Benefits. Participating Provider agrees to participate in the Avesis utilization review program and to abide by the resulting conclusions of those programs. Failure to abide by the utilization review program's conclusions shall be considered a breach of this Agreement.

- (2) Independent Contractor. Participating Provider and/or all dentists providing care under this Agreement are independent contractor(s), and nothing herein shall be construed to create an agency, employment, partnership, joint venture or fiduciary relationship between Avesis and any Participating Provider.
- (3) Non-Exclusive Relationship. Participating Provider's rights hereunder are non-exclusive. Participating Provider may provide services to non-Avesis patients, and enter into agreements with other networks and organizations for such purposes.
- (4) Rights Reserved by Avesis. Avesis retains all ownership rights in the Avesis networks and system, the sole and exclusive right to operate offices or license other providers to participate in the Avesis system, and exclusive rights in and to the names and marks AVESIS®, together with any and all other trademarks and service marks that may hereafter be adopted or used by Avesis. Participating Provider shall not advertise or use any names, symbols, trademarks or service marks of Avesis in any advertising or public communication without the prior written authorization of Avesis.

F. INDEMNIFICATION.

Neither Avesis nor any Sponsor, their officers, shareholders, directors, employees, agents, successors nor assigns ("Indemnified Party") shall be responsible for or guarantee the quality of any services furnished by Participating Provider. Participating Provider agrees to indemnify and hold Avesis and all Sponsors, their officers, directors, employees and agents from and against any claim, damage, loss (including any amounts paid in compromise or settlement of disputed claims), expenses, liability, obligation, action or cause of action, including reasonable attorneys' fees and all costs of investigation (collectively the "Indemnified Claims"), which the Indemnified Party may sustain pay, suffer incur by reason of any service provided by Participating Provider to any Member. Attorneys' fees shall include not only those fees incurred in connection with investigating and defending the Indemnified Claims but also all attorneys' fees incurred by Avesis in prosecuting, enforcing and collecting this indemnity. The Indemnified Party is not responsible for nor does the Indemnified Party guarantee the quality of any services furnished by Participating Provider. Participating Provider shall indemnify Avesis and all Sponsors from all claims, liabilities and damages incurred in connection with, or arising out of Participating Provider's material breach of this Agreement or any dental services furnished, or to be furnished, by Participating Provider to Members. The obligations of indemnification shall survive the termination of the Agreement.

It is further understood and agreed to by Participating Provider that in no event, including but not limited to non-payment by Avesis or Sponsor, insolvency of Avesis or Sponsor or breach of this Agreement, shall Participating Provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from or have any recourse against a Member or a person acting on a Member's behalf for Covered Benefits provided pursuant to this Agreement. This provision shall not prohibit Participating Provider from collecting copayments, deductibles and/or coinsurance made in accordance with the terms of the Covered Benefits and Fee Schedule or for collection for non-covered services either from the Member or from third parties when such parties are primarily responsible for paying for these services. It is further understood that this provision shall survive the termination of this Agreement regardless of the cause giving rise to termination and shall be construed to be for the benefit of the Member and that this provision supersedes any oral or written contrary agreement now existing or thereafter entered into between Avesis and Participating Provider and Member or persons on their behalf.

G. CLAIMS AND PAYMENT.

- (1) Claims Processing. If the Sponsor's program includes the payment of claims for Covered Benefits provided to its Members, and if the Sponsor retains Avesis as its claims administrator, then Participating Provider shall submit claims to Avesis electronically in compliance with standard coding guidelines, or on the current ADA Claim Form or entered on the Avesis website in order to receive payment for Covered Benefits. Participating Provider shall, to the extent possible, seek and accept from Members their assignments of payments for claims for Covered Benefits. Participating Provider shall submit claims in the manner provided in the Provider Manual, together with all reasonably requested additional documentation, no later than one hundred eighty (180) calendar days for Medical Assistance and three hundred sixty-five (365) calendar days for all other products, after providing the Covered Benefits. Avesis shall provide prompt payment of all Clean Claims submitted on behalf of eligible Members for services performed by Participating Provider in accordance with the laws of the jurisdiction where services are being provided and with the terms of the Sponsor, as set forth in Section C. (6) of this Agreement. Payment shall be made from designated funds provided to Avesis by the Sponsor specifically for that purpose.
- (2) Compensation. Payments made to Participating Provider hereunder are derived from Federal, State and/or Sponsor funds. Contingent upon receipt of payment from Sponsor, Avesis shall pay Participating Provider according to the Covered Benefits and Fee Schedule. The Covered Benefits and Fee Schedule are subject to change with thirty (30) days prior written notice from Avesis. Claim disputes will be referred to the Appeals Committee and/or the Chief Dental Officer. If disputes are not settled, they shall fall under the conditions set forth in Section O of this Agreement.
- (3) Funds Due. Upon Avesis' receipt of notice from Sponsor that CMS or the Department of Public Welfare is due funds from Participating Provider, Avesis shall reduce payment to Participating Provider for all claims submitted by Participating Provider by ONE HUNDRED PERCENT (100%), or such other amount as CMS or DPW may elect, until such time as the amount owed to CMS or DPW is recovered, and shall promptly remit any such funds recovered to Sponsor to be remitted to CMS or DPW in the manner specified by CMS or DPW. If Avesis identifies an overpayment to Participating Provider, Avesis shall reduce payment to Participating Provider for all claims submitted by Participating Provider by up to ONE HUNDRED PERCENT (100%) as determined by Avesis until overpayment amount has been recovered.
- (4) Program Coverage. Participating Provider agrees to submit pretreatment estimates, if required in the Covered Benefits Schedule. Participating Provider acknowledges that possession of an Avesis identification card or Sponsor identification card does not guarantee that an individual is still a Member on the date services are rendered, or that a Member is necessarily covered for any or all services to be provided. Member eligibility will be determined at the time payment is made. For emergency treatment see procedures described in Section D hereto.
- (5) Non-covered Services. Participating Provider may bill the Medicaid recipient for non-covered services if the Member is told before the service is rendered that there is no coverage for the service under the Member's program. If there are non-covered procedure(s) or treatment(s) available to the Member, the Member must indicate in writing on a disclosure form his/her willingness to accept non-covered procedure(s) or treatment(s). The Member shall sign a statement evidencing his/her knowledge of said disclosure. The statement must also include the cost of the non-covered procedure(s) or treatment(s) and an assurance that there are no other Covered Benefits available to the Member. If, and only if, the Member knowingly elects to receive the non-covered procedure(s) or treatment(s), the Member would pay a discounted fee of the Participating Provider's Usual and Customary rate as payment in full for said service or treatment. In addition, the disclosure statement must contain the agreed upon payment arrangements. If the Member will be subject to collection action upon failure to make the required payment, the terms of said action must be kept in the Member's treatment record.

Failure to comply with this procedure will subject the Participating Provider to sanctions up to and including termination as set forth in Section K of this Agreement. Avesis shall make available the disclosure form in the Provider Manual.

- (6) Coordination of Benefits. Participating Provider will notify Avesis when it is determined that a Member may be entitled to coverage under any other Sponsor Plan. If Avesis is the primary carrier, Participating Provider agrees that Avesis' obligation to Participating Provider will not exceed the compensation described in the Covered Benefits and Fee Schedule. If Avesis is the secondary carrier, Participating Provider agrees that Avesis' obligation to Participating Provider will not exceed the compensation described in the Covered Benefits and Fee Schedule and Participating Provider will refund the aggregate compensation that Participating Provider received from other Sponsor for services in question.
- (7) Missed Appointments. Participating Provider shall not bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from or have recourse against any Member or person acting on behalf of a Member for a missed appointment.
- (8) Treatment in Progress. If Participating Provider is rendering services to Member upon execution of the Agreement, Participating Provider agrees to submit existing pre-treatment estimates to Avesis. At no time following execution of this Agreement shall Participating Provider be required to continue treatment of a Member with whom Participating Provider cannot maintain a professional relationship or whose treatment is beyond the scope of Participating Provider's ability. Participating Provider must work with Avesis and/or Sponsor to transition care for Member. Participating Provider agrees to complete any treatment in progress for a newly enrolled Member. Avesis agrees to negotiate fees in good faith for such treatment.
- (9) Work in Progress. Upon termination of this Agreement between Participating Provider and Avesis, Participating Provider shall continue to provide Covered Services to Members who are patients of the Participating Provider at the time termination until the later of sixty (60) calendar days after the effective date of the termination of this Agreement or the anniversary date of the Member's coverage or until such time that Avesis can arrange for appropriate health care for the Member with a Participating Provider. Avesis shall compensate Participating Provider for such Covered Services rendered according to the terms and conditions set forth herein and at the rates set forth in the applicable fee schedule used by Avesis on the date of service. This Section shall survive the termination of this Agreement. Notwithstanding the foregoing, Participating Provider agrees to complete all work in progress within sixty (60) calendar days.
- (10) Coordination of Care – Members with Special Needs. As applicable and necessary, Participating Provider shall exchange clinical information and consult with the Primary Care Physician treating a Member with special needs. If Participating Provider deems it necessary to share information with the Member's PCP, Participating Provider shall first obtain the Member's or the Member's authorized representative's consent to release the information. If the Member or Member's authorized representative refuses to sign the consent to release information, all attempts to obtain said authorization shall be documented in the patient's record.

H. REPRESENTATIONS, WARRANTIES AND COVENANTS OF PARTICIPATING PROVIDER.

Except as otherwise disclosed to Avesis in writing prior to execution of this Agreement, Participating Provider hereby warrants that the representations, warranties and covenants set forth below in this Section H are true and accurate as of the date of this Agreement, and that they shall remain true and accurate at all times throughout the Term of this Agreement. Participating Provider acknowledges that the accuracy and fulfillment of these representations, warranties and covenants are a condition of initial and continued survival of this Agreement:

- (1) Authorization. The individual executing this Agreement on behalf of Participating Provider is duly authorized to do so; and upon its execution, this Agreement shall constitute the legal, valid and binding obligation of Participating Provider.
- (2) No Inducements. Except as otherwise specifically set forth herein, no promises or guarantees of specific payment or volume or value of referrals have been made to Participating Provider as an inducement to reduce, delay or limit specific, medically necessary services covered by the Sponsor's dental plan or by any person representing either party to induce Participating Provider to execute this Agreement. Participating Provider agrees that he shall not profit from provision of covered services that are not medically necessary or appropriate.
- (3) Review. Participating Provider and any partners or shareholders, if applicable, have read the entire Agreement and represent that each of them is capable of complying and will comply with it.
- (4) Except as otherwise set forth by Participating Provider during the Credentialing process, Participating Provider is duly licensed, registered and in good standing and shall maintain such licensure throughout the Term to practice dentistry in the states where he provides services under this Agreement and such license and registration is not restricted, conditioned or limited in any way.
- (5) Except as otherwise set forth by Participating Provider during the Credentialing process, Participating Provider's license to practice dentistry in any state has never been suspended, limited, conditioned, revoked or voluntarily relinquished under the threat of disciplinary action;
- (6) Except as otherwise set forth by Participating Provider during the Credentialing process, Participating Provider has never been reprimanded, sanctioned or disciplined by a licensing board or state or local professional society or specialty board;
- (7) Except as otherwise set forth by Participating Provider during the Credentialing process, there has never been entered against Participating Provider a claim, final judgment or agreed settlement in a malpractice action;
- (8) Participating Provider has no obligation to others that is inconsistent with Participating Provider's obligations under this Agreement and the undertaking of this Agreement by Participating Provider will not constitute a breach of any other agreement to which Participating Provider is a party or any obligation to which Participating Provider is bound;
- (9) Except as otherwise set forth by Participating Provider during the Credentialing process, Participating Provider is currently not, and has not in the past been, the subject of any investigation for suspected healthcare fraud or abuse or violation of any other state or federal law, nor has Participating Provider's Medicare or Medical Assistance provider status been limited, conditioned, revoked, or suspended for any reason;
- (10) Participating Provider shall at all times render services to Members of Avesis in a competent, professional, and ethical manner, in accordance with prevailing standards of professional care and practice, and all applicable statutes, regulations, rules, orders, and directives of any and all applicable governmental and regulatory bodies having competent jurisdiction;
- (11) Participating Provider shall complete and maintain, in a timely manner, adequate, legible and proper Member records in accordance with applicable State and Federal laws and regulations, customary medical practice and Sponsor and Avesis policies and procedures, as set forth in the Provider Manual. Records shall be retained by Participating Provider for a minimum of ten (10) years from the date of service and, for services rendered to minors, for seven (7) years after the date on which the minor reaches the age of majority.

- (12) Participating Provider represents and warrants that he is not now under any obligation to any person or entity nor does he have any other interest which is inconsistent with or in conflict with this Agreement or in conflict with any other agreement which would prevent, limit or impair, in any way, his performance of any of the covenants or duties herein.

I. PROFESSIONAL REQUIREMENTS.

- (1) Insurance. While this Agreement is in effect, Participating Provider shall keep in force all professional liability insurance coverage required by state and/or federal law. If the state does not require specific limits, Participating Provider agrees to maintain professional liability insurance of ONE MILLION DOLLARS (\$1,000,000) per claim and THREE MILLION DOLLARS (\$3,000,000) annual aggregate, or such other amounts as may be recommended by the State licensing board. Such insurance shall cover, at a minimum, each location where Participating Provider provides services under this Agreement. Participating Provider also agrees to maintain comprehensive general liability insurance and/or such other available insurance as shall be necessary to insure Participating Provider and his employees against and from any and all damages arising from its duties and obligations under this Agreement. Proof of such insurance shall be made available to Avesis within two (2) business days of its request. The costs of securing said insurance coverages shall be borne by the Participating Provider. Insurance carried by Participating Provider will not relieve Participating Provider from the indemnity obligations in Section F. Participating Provider shall notify Avesis or Sponsor at least thirty (30) days prior to the cancellation or termination of any such policy. Participating Provider shall notify Avesis immediately upon the termination of any such policy.
- (2) Professional Training. Participating Provider and all employees or agents rendering services to Members shall possess and maintain the training and ability and other qualifications necessary to provide quality care to Members. Avesis will review the status of the Participating Provider following notification of any action by the State Board of Dentistry.
- (3) Professional Standards. Participating Provider and all employees or agents rendering services to Members shall provide dental care that meets or exceeds the standards of care for dentists in the region as determined by the State Board of Dentistry and shall comply with all standards for dentists as established by Federal or State law or regulation.
- (4) Professional Review Process. Any instance where there is a possible violation of Professional Requirements, the issue will first be referred to the State Dental Director and Chief Dental Officer for review. If it is deemed that there is insufficient evidence, Participating Provider will be notified that no action is required. If it is deemed that there is sufficient evidence that the Participating Provider has failed to fulfill the Professional Requirements, Participating Provider will be given written notice and thirty (30) days to rectify the situation. In the event that the Chief Dental Officer determines that there is potential risk to Members due to the violation, Avesis shall have the right to immediately terminate the Participating Provider with cause as set forth in Section K of this Agreement. If Participating Provider does not successfully rectify the situation, termination will occur as referenced in Section K.
- (5) Continuing Education. Participating Provider and all employees or agents rendering services to Members shall comply with all continuing education standards as required by Federal or State law or regulation.
- (6) Regulatory Compliance. Participating Provider must meet the minimum requirements for participation in the programs as provided by Federal or State law in the jurisdiction where services are being provided.
- (7) Participating Provider shall notify Avesis within two (2) business days of the confirmation of a medical disability, the restriction or loss of any DEA certificate or license to practice dentistry or

any action that limits or restricts the Participating Provider's ability to practice dentistry or limits the licensed professional personnel providing services to Members.

- (8) Participating Provider shall be held civilly and/or criminally liable to Sponsor and the Department of Public Welfare in the event of non-performance, misrepresentation, fraud or abuse or for the submission of false claims or statements.

J. ASSIGNMENT.

Neither this Agreement nor any of the rights or obligations hereunder shall be assigned, transferred or delegated by Participating Provider, by operation of law or otherwise, without the prior written consent of Avesis. Any change of ownership interest in Participating Provider shall be deemed an assignment of the Agreement, and would require the prior written consent of Avesis. Avesis may assign its rights and obligations hereunder.

K. TERMINATION AND SUSPENSION.

- (1) Termination without Cause. This Agreement may be terminated by either party providing written notice to the other at least sixty (60) calendar days prior to termination of this Agreement. It is understood that during the sixty (60) day period, the terms and conditions of this Agreement shall remain in force and effect with the exception of Section C(3). Terminations without cause may not be appealed.
- (2) Termination for Cause. Avesis may terminate this Agreement immediately by providing written notice to Participating Provider, in the event Participating Provider:
- (a) breaches a term of this Agreement or the Provider Manual, including without limitation, the Representations and Warranties or Responsibilities defined herein; or
 - (b) poses an imminent danger to Avesis Members or the public health, safety and welfare; or
 - (c) is charged with a felony or a crime of moral turpitude; or
 - (d) is convicted of an offense related to Medicare or Medical Assistance; or
 - (e) fails to satisfy the credentialing or recredentialing program requirements; or
 - (f) ceases participating in Avesis network(s) through non-renewal of credentialing application or denial of approval for participation.
 - (g) submits a false claim or makes false statements

Participating Provider may appeal the termination decision upon written notification stating the grounds for said appeal, within ten (10) days of notification of termination.

- (3) Appeals Process. Upon receipt of written notification of appeal stating the grounds for the appeal, Avesis shall convene a special meeting of the Credentialing Committee and will review all of the appropriate information. The decision will be either confirmed or overturned. If the original decision is overturned, Participating Provider will be reinstated. If the original decision is confirmed, Participating Provider shall continue to have the right to dispute resolution as set forth in Section O.
- (4) Either party may terminate this Agreement for a material default by the other party if the default is not cured within thirty (30) calendar days after the defaulting party is given written notice specifying the default. Termination of this Agreement does not nullify Participating Provider's responsibility for the adequacy of service provided to Members.
- (5) This Participating Provider Agreement shall not be terminated by Avesis if Participating Provider advocates for medically necessary and appropriate health care services for a Member consistent with the degree of learning and skill ordinarily possessed by a reputable health care

provider practicing according to the applicable legal standard of care; files a grievance on behalf of and with the written consent of a Member or assists the Member with filing of a grievance; protests a plan decision, policy or practice that Participating Provider believes interferes with his ability to provide medically necessary and appropriate health care; or takes other action on behalf of Members as permitted by Sections 2113, 2121 and 2171 of Act 68. Furthermore, Avesis shall not exclude a provider from participation or terminate this Agreement due to the fact that the Participating Provider's practice includes a substantial number of patients with expensive medical conditions.

- (6) Effect of Termination. Except as provided for herein, no reimbursement will be made by Avesis for any services rendered after the termination of this Agreement unless required by the applicable Federal or State law or Sponsor requirements regarding continued coverage of services for Members. Any due process or appeal rights of a Participating Provider shall be governed by the provisions defined in the Provider Manual, incorporated herein by reference, unless superseded by conflicting and governing state law.
- (7) Definitions.
 - (a) "Termination" shall mean any termination of this Agreement for any reason stated under this Section K. (2).
 - (b) "Termination Date" shall mean the effective date of Termination as provided in this Section K.
- (8) Suspension. Avesis may, in its sole and absolute discretion, suspend Participating Provider's participation as an Avesis Participating Provider if any of the following were to occur:
 - (a) Upon claims or utilization review by Avesis, billing or claims submission issues occur with such frequency that Avesis, in its sole and absolute discretion, determines that Participating Provider should be suspended pending further investigation by Avesis and such billing and claims issues are resolved.
 - (b) Breach of this Agreement by Participating Provider for which Avesis elects, in its sole and absolute discretion, to suspend Participating Provider until such problem or problems that caused the breach of this Agreement have been cured.
- (9) Capitated Agreements Only. In the event that Avesis compensates Participating Provider on a capitated basis, Participating Provider, upon termination of this Agreement for any reason, shall provide services to Members assigned to Participating Provider until the end of the month in which the effective date of the termination of this Agreement falls.

L. PROCEDURES AFTER TERMINATION.

Upon termination of this Agreement for any reason:

- (1) Cease Affiliation. Participating Provider shall cease to be an authorized Avesis Participating Provider and shall:
 - (a) immediately and forever cease and desist from using Avesis advertising and promotional materials, and all trade secrets and confidential material delivered to Participating Provider pursuant to this Agreement; and
 - (b) refrain from doing anything which would indicate that Participating Provider is an authorized Avesis Participating Provider.
- (2) Non-Solicitation. Participating Provider agrees not to directly or indirectly solicit Members to remain patients of Participating Provider, unless first advising the Member that they have ceased their participation with Avesis and informing the Member that there may be other

Participating Providers in the area. Participating Provider specifically acknowledges receipt of good and valuable consideration sufficient to support this provision of the Agreement.

- (3) Participating Provider further agrees to comply with Sponsor's transition of administrative duties and records in the event of the termination of this Agreement or insolvency of Sponsor or Avesis.
- (4) Participating Provider agrees that, in the event of Sponsor's or Avesis' insolvency or other cessation of operations, Participating Provider shall continue to provide Covered Services to Members enrolled in a Medical Assistance product through the period for which the capitation has been paid, including Members in an inpatient setting.

M. SPECIAL REMEDIES.

Participating Provider acknowledges that if Participating Provider breaches any of the provisions of Sections C (5), E, I, or L, Avesis shall have incomplete and inadequate remedies at law. Therefore, Participating Provider expressly consents and agrees that Avesis may, in addition to any other available remedies, obtain an injunction and/or temporary restraining order to terminate or prevent the continuation of any such violation.

N. NOTICES.

All notices provided for in this Agreement shall be in writing and sent to the address provided on the signature page of this Agreement. Notices shall be deemed to have been duly given upon (a) actual delivery; (b) five (5) days after deposit for mailing by registered or certified mail, postage prepaid, return receipt requested, addressed to the other party at the address shown at the end of this Agreement; (c) one business day after delivery to a commercial overnight delivery service addressed as provided above for delivery the next business day; or (d) facsimile transmission. Either party may change its address by written notice to the other party. Notification regarding any changes to the Agreement, policies and procedures affecting Participating Provider or the provision to or payment for Covered Services to Covered Persons shall be provided in writing at least thirty (30) calendar days prior to the effective date of the change.

O. GENERAL PROVISIONS.

- (1) Interpretation. This Agreement, any attachments or exhibits hereto and the Provider Manual contain the entire understanding between the parties with respect to the subjects hereof, and supersedes all prior negotiations and agreements. Except as otherwise expressly provided herein, this Agreement may be amended only by written instrument and signed by the parties. The waiver of any breach of this Agreement shall not be deemed to amend this Agreement and shall not constitute a waiver of any other or subsequent breach. Headings are for convenience and shall not affect interpretation. Words in this Agreement shall be deemed to refer to whatever number or gender the context requires. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns. No right or remedy shall be exclusive of any other right or remedy herein or provided by law, but such rights and remedies shall be cumulative and enforceable simultaneously or sequentially.
- (2) Severability. If any provision of this Agreement shall be declared invalid or unenforceable, that provision shall be deemed modified to the extent necessary to make it valid and enforceable. If it cannot be so modified, then severed, and the modified or remaining provisions shall remain in full force and effect.
- (3) Choice of Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement, shall be governed by and construed, interpreted and enforced in accordance with the laws in the state wherein it has been executed by Participating Provider.

- (4) Disputes. Except as may otherwise be provided for herein, any and all disputes arising out of or relating to this Agreement and the transactions contemplated herein, shall be solely and finally settled by binding arbitration and administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules (the "Rules"), by a single arbitrator selected in accordance with the Rules (the "Arbitrator"). The Arbitrator shall not have been employed by or affiliated with any of the parties or their affiliates. Except as set forth below, the parties hereby renounce all recourse to litigation as to matters subject to arbitration hereunder, and the parties agree that the award of the Arbitrator shall be final and subject to no judicial review, except as expressly provided by applicable law. The Arbitrator shall decide the issues submitted to him in accordance with: (a) the provisions and purposes of this Agreement; and (b) the laws in the State wherein this Agreement has been executed by Participating Provider (without regard to its conflicts of laws rules), and shall issue a written award setting forth the reasons for his decision. Judgment on the award of the Arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, each party shall have the right to seek injunctive or other equitable relief in any court of competent jurisdiction to enforce the provisions of this Agreement without first seeking or obtaining any decision of the Arbitrator with respect to the subject matter of this Agreement, even if a similar or related matter has already been referred to arbitration in accordance with the terms of this paragraph.
- (5) Attorneys' Fees. Should Avesis incur attorneys' fees in order to enforce the terms and conditions of this Agreement, including post-term covenants, whether or not a legal action is instituted, Avesis shall be entitled to reimbursement of such attorneys' fees and costs, in addition to any other remedies Avesis may have at law or in equity.
- (6) Program Compliance. Participating Provider agrees to comply fully with Avesis and Sponsor regarding (a) benefit exclusions; (b) administrative and utilization management requirements; (c) credential verification program; (d) quality assessment program; (e) provider sanction policies; and (f) Member complaint and grievances systems. Avesis agrees to notify Participating Provider in writing of any changes to the above mentioned programs and agrees to allow Participating Provider a mutually agreed upon time frame to comply with such changes.
- (7) Entire Agreement. This Agreement, together with the Provider Manual and any Exhibits or Addendums referred to herein, constitute the entire Agreement between Participating Provider and Avesis. This Agreement supersedes all prior and contemporaneous agreements, understandings and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. This Agreement may not be modified or amended other than by an agreement in writing.
- (8) Exhibits. Any Exhibits hereto are incorporated by reference into this Agreement and made a part hereof. In the event of any conflict or inconsistency between the provisions of this Agreement and provisions of any exhibit or attachment hereto, except for the Attachments entitled Medicare, Medical Assistance and CHIP Product Regulatory Requirements, the provisions of this Agreement shall govern.
- (9) Change in Status. Participating Provider understands that any and all changes in the Participating Provider's legal and contractual relationship to and with the Participating Provider's clinical partners, who are also party to this Agreement must be communicated to Avesis in writing. Participating Provider also agrees to provide Avesis thirty (30) days notice of any closure of their practice to additional Members or of a new location of their practice.
- (10) Amendment or Restated Agreement. Avesis may amend or restate any part of this Agreement by notifying Participating Provider in writing and Participating Provider shall have thirty (30) calendar days to accept and agree to such Amendment or restatement unless such change is required by law or regulation. If Participating Provider does not accept the proposed Amendment or restatement, Participating Provider shall have (5) business days from receipt of

proposed changes to contact Avesis to confer in good faith to reach an agreement. If an agreement cannot be reached, this Agreement can be terminated as set forth in Section K.

- (11) Responsibility for Actions. Each party shall be responsible for any and all claims, liabilities, damages, or judgments that may arise as a result of its own negligence or intentional wrong doing.
- (12) Form. All words used herein in the singular number shall extend to and include the plural. All words used in the plural number shall extend and include the singular. All words used herein apply to all genders.
- (13) Errors. Avesis shall make every reasonable effort to maintain accurate information. However, Avesis shall not be held liable for any damages directly or indirectly due to typographical errors. Participating Provider agrees to notify Avesis of any errors found.
- (14) Special Needs. For those providers trained in and servicing Members with special needs, Participating Provider agrees to assist Avesis, when appropriate, in the development of an adequate network to serve the special needs population.

Agreed to by the parties hereto and effective the date first above written.

By: _____
Print Participating Provider's Name

Avesis Third Party Administrators, Inc.

Signature

Signature

Date: _____
Practice Name

Date: _____
10324 South Dolfield Road
Owings Mills, Maryland 21117

Primary Location Address

City, State, Zip

NPI Number

ATTACHMENT A

Sponsor

Participating Provider, by executing this Agreement, agrees to participate in the following products, unless otherwise indicated by Participating Provider in writing on an attachment hereto:

Health Partners

ATTACHMENT B
Medicare Product Regulatory Requirements

The following are the statutory and regulatory requirements for participation in the Avesis Medicare Advantage and Special Needs Plan programs for the Sponsors identified on Attachment A hereto, as may be amended from time to time (collectively referred to as Medicare Products). To the extent that the requirements set forth on this Attachment conflict with the provisions of the Agreement, the terms of this Attachment shall control.

1. **Medical Necessity.** For purposes of determinations of Medical Necessity of services provided to Members in enrolled in Medicare Products, the following definition, in accordance with CMS regulations, will be used:

Medical Necessity or Medically Necessary means medical or hospital services that are determined by to be:

- (1) Rendered for the treatment or diagnosis of an injury or illness; and
- (2) Appropriate for the symptoms, consistent with diagnosis, and otherwise in accordance with sufficient scientific evidence and professionally recognized standards; and
- (3) Not furnished primarily for the convenience of the Member, the attending physician or other provider of service.

Whether there is "sufficient scientific evidence" shall be determined by Avesis based on the following: peer reviewed medical literature; publications; reports; evaluations and regulations issued by State and federal government agencies, Medicare local carriers and intermediaries; and such other authoritative medical sources as deemed necessary by Avesis.

2. **Member Non-Liability.** Participating Provider shall not, at any time, including insolvency of Avesis or Sponsor, hold any Member enrolled in the Medicare Products liable for payment of any fees that are the legal obligation of Sponsor.
3. **Continuation of Care.** As applicable, Participating Provider shall continue to provide or arrange for the provision of Covered Services to Members who are hospitalized on the date on which the agreement between CMS and Sponsor terminates, or in the event of Avesis or Sponsor's insolvency, through the date of discharge of such Members. For all other Members, Participating Provider shall continue to provide Covered Services to Members through the period for which CMS payments have been made for said Members. Such continuation of care shall be in accordance with the terms and conditions of the Agreement, including, but not limited to the rates set forth herein. This paragraph shall survive the termination of this Agreement.
4. **Excluded Individuals.** Participating Provider shall not employ or contract with any individual excluded from participation in the Medicare Program. Participating Provider hereby represents and warrants that no such excluded person currently is employed by or under contract with Participating Provider for the fulfillment of obligations hereunder.
5. **Compliance with Federal and State Law.** Participating Provider acknowledges that payments for Covered Services rendered to Members enrolled in a Medicare Product are, in whole or in part, derived from federal funds and receipt of such payment is subject to all laws and regulations applicable to recipients of such funds. Therefore, Participating Provider shall comply with all laws and regulations applicable to individuals and entities receiving federal funds and all other applicable federal and State laws and regulations, including, but not limited to, those laws and regulations governing participating in the Medicare Advantage and Special Needs Plan Programs, Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, as well as their implementing regulations.

6. Cooperation.

- a. Participating Provider shall cooperate with Avesis in furnishing an initial assessment of new Members' health care needs within ninety (90) days of enrollment with Sponsor, as applicable to the services to be rendered under this Agreement.
- b. As applicable to the services to be provided by Participating Provider, Participating Provider shall cooperate with Sponsor's procedures for identifying, assessing and establishing treatment plans for Members with complex or serious medical conditions. Such procedures are set forth in the Provider Manual.
- c. Participating Provider shall cooperate with all independent quality review and improvement organization's activities required by CMS, Avesis and or Sponsor pertaining to the provision of Covered Services to Members.
- d. Participating Provider shall cooperate and comply with all Sponsor and Medicare requirements regarding appeals of Members, including the obligation to provide information (including medical records and other patient information) to Sponsor within the timeframe reasonably requested for such purpose.
- e. Participating Provider shall comply and cooperate with all Avesis, Sponsor and Medicare reporting requirements, including, but not limited to, statutory and regulatory reporting requirements such as reporting of encounter data.

7. Termination of Agreement. Avesis shall provide notice to Participating Provider when Avesis, by direction of Sponsor, denies, suspends or terminates this Agreement, or participation under such Agreement, for purposes of Medicare Product participation, and in such notice shall include: (a) the reason for the action; (b) the standard and profiling data used to evaluate Participating Provider; (c) the numbers and mix of health care providers needed for Sponsor to provide adequate access to Covered Services for Members; and (d) the right of Participating Provider to appeal the action and the timing required to request a hearing.

8. Collection of Data. When requested by Avesis or Sponsor and as applicable, Participating Provider shall participate in the collection and submission of data to CMS which shall include, but not be limited to: (a) inpatient hospital discharge data; (b) physician, outpatient hospital, skilled nursing facility and home health agency data; and (c) all other data deemed necessary by CMS. Where applicable, Participating Provider shall certify the accuracy of the data collected and submitted under this section.

9. Medical Records. For any medical records or other health and enrollment information maintained by Participating Provider with respect to Members enrolled in Sponsor's Medicare Products, Participating Provider shall:

- a. Safeguard the privacy of any information that identifies a particular Member and abide by all federal and State laws and regulations regarding confidentiality and disclosure of mental health records, medical records and all other protected health information. Information from or copies of records may be released only in accordance with federal and State laws and regulations governing such records and the information contained therein. Original medical and pharmaceutical records may be released only in accordance with federal or State laws, regulations, court orders or subpoenas;
- b. Maintain Member records and information in an accurate and timely manner; and
- c. Ensure timely access by Members to their own records and information in accordance with federal and State laws and regulations.

10. Records and Inspections.

- a. Avesis, Sponsor and Participating Provider recognize and agree that the United States Department of Health and Human Services (DHHS), the Comptroller General, or their designees may audit, evaluate or inspect any books, contracts, medical records, patient care documentation and other records of Avesis, Sponsor, Participating Provider and their related entities, contractors, subcontractor or transferees, that pertain to any aspect of services performed, reconciliation of benefit liabilities and determination of amounts payable under this Agreement for purposes of a Medicare Product, or as the Secretary of DHHS may deem necessary. Avesis, Sponsor and Participating Provider shall make available their premises, physical facilities and equipment, records related to the provision of Covered Services or any additional relevant information that DHHS may require.
- b. CMS, the Comptroller General, or their designees have the right to inspect, evaluate and audit Avesis, Sponsor, Participating Provider and their contracted entities, for a period of ten (10) years after the final date of the contract period or the completion of an audit, whichever is later, unless: (a) CMS determines that there is a special need to retain a particular record or group of records for a longer period and notifies Avesis, Sponsor or Participating Provider at least thirty (30) days before the normal disposition date; (b) there has been a termination, dispute or fraud or similar fault by Avesis, Sponsor and Participating Provider or their contracted entities, in which case retention may be extended to ten (10) years from the date of any final resolution of the termination or fraud or similar fault; or (c) CMS determines that there is a reasonable possibility of fraud, in which case it may inspect, evaluate and audit Avesis, Sponsor and Participating Provider or their contracted entities at any time.

11. Sponsor Accountability. Notwithstanding anything set forth in the Agreement, Participating Provider and Sponsor acknowledge and agree that Sponsor oversees and is ultimately accountable to CMS for any functions and responsibilities performed by Avesis or Participating Provider that are described in the regulations applicable to the Medicare and Special Needs Plan Programs.

12. Provision of Services. Participating Provider shall comply with Avesis and Sponsor's policies and procedures as required by CMS. Participating Provider shall furnish Covered Services to Members consistent with the requirements of the Medicare Advantage and Special Needs Plan Programs and Avesis and Sponsor's policies and procedures, including but not limited to, Sponsor's contractual obligations to CMS, policies governing Notices of Non-coverage and issuance of the appropriate discharge notices.

13. Delegation. In the event that Sponsor, pursuant to a separate agreement, delegates to Participating Provider certain Sponsor obligations under its agreement with CMS to provide a Medicare Product, Participating Provider shall perform such obligations as set forth in that agreement and in accordance with all applicable laws, regulations and government policies and pronouncements. In the event that Sponsor or CMS determines that the Participating Provider has not performed such delegated functions satisfactorily, or if the Provider has not met requisite reporting and disclosure requirements in a timely manner, Sponsor shall have the right, upon written notice to Participating Provider, to revoke, in whole or in part, the delegated obligations as Sponsor deems necessary to effectuate Sponsor's ultimate responsibility to CMS for the performance of its obligations.

14. Physician Incentive Plans. Participating Provider shall include in all contracts with other providers, if any, a description of all payment and incentive arrangements between such parties. Participating Provider shall require its individual participating providers to accurately disclose such payment and incentive arrangements, if any, to Sponsor and CMS upon request and in the format requested. If this Agreement results in Participating Provider's being at substantial financial risk as defined by CMS, Participating Provider must obtain either aggregate or per patient stop-loss insurance protection and comply with such other requirements governing Physician Incentive Plans, as set forth by federal law or regulation.

15. **Amendment and Severability of Contracts.** Notwithstanding any provision in the Agreement, this Agreement may be amended upon request or mandate by CMS to comply with all relevant Federal and State laws and regulations and government pronouncements. Additionally, this Agreement shall be amended to exclude any Medicare Product or State-licensed entity specified by CMS. A separate agreement for any such excluded product or entity will be deemed to be in place when such request is made.
16. **Notice of Civil Judgments.** Participating Provider shall report in writing to Avesis and Avesis shall report to Sponsor within thirty (30) calendar days of the Participating Provider's knowledge of any and all civil judgments and "other adjudicated action or decisions" against Participating Provider or its individual participating providers related to the delivery of any health care item or service (regardless of whether the civil judgment or other adjudicated action or decision is the subject of a pending appeal).

"Other adjudicated actions or decision" means formal or official final actions taken against a health care provider by a federal or State government agency, which include the availability of a due process mechanism, and are based on some acts or omissions that affect or could affect the payment, provision, or delivery of a health care item or service. An action taken following adequate notice and health requirement that meets the standards of due process set out in section 412(b) of the Health Care Quality Improvement Act (42 U.S.C. § 1112(b)) also would qualify as a reportable action under this definition. The fact that Participating Provider or its individual participating provider elects not to use the due process mechanism provided by the authority bringing the action is immaterial, as long as such a process is available to the subject before the adjudicated action or decision is made final.

Participating Provider shall comply with Sponsor's policy regarding the reporting of Health Care Integrity and Protection Data.

17. **Program Integrity.** In accordance with 42 C.F.R. § 1001.952(m)(1)(i), Participating Provider shall not claim payment in any form from CMS, another federal government agency or a State agency for items or services furnished in accordance with the Agreement except as approved by CMS, nor shall Participating Provider otherwise shift the burden of such an agreement to the extent that Participating Provider's claim increases payments from Medicare or a State health care program.
18. **Non-Discrimination by Sponsor.** Avesis shall not discriminate with respect to participation, reimbursement or indemnification as to Participating Provider while Participating Provider is acting within the scope of Participating Provider's license or certification under applicable State law. This paragraph shall not be construed to prohibit Avesis from including providers only to the extent necessary to meet the needs of Sponsor's Members or from establishing any measure designed to maintain quality and control costs consistent with Avesis and Sponsor's responsibilities.

ATTACHMENT C
Medical Assistance Product Regulatory Requirements

The following are the statutory and regulatory requirements for participation in the Avesis dental programs for Sponsor, as set forth on Attachment A. To the extent that the requirements set forth on this Attachment conflict with the provisions of the Agreement, the terms of this Attachment shall control.

1. **Medical Necessity.** For purposes of determinations of Medical Necessity of services provided to Members enrolled in Sponsor's Medical Assistance Product, the following definition will apply:

A service or benefit is Medically Necessary if it is compensable under the Medical Assistance Program and if it meets any one of the following standards:

- (a) The service or benefit will, or is reasonably expected to, prevent the onset of an illness, condition or disability.
- (b) The service or benefit will, or is reasonably expected to, reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability.
- (c) The service or benefit will assist the Member to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the Member and those functional capacities that are appropriate for Members of the same age.

Determinations of Medical Necessity for covered care and services, whether made on a prior authorization, concurrent review, retrospective review, or exception basis, must be documented in writing. The determination is based on medical information provided by the Member, the Member's family/caretaker and the Primary Care Provider, as well as any other Providers, programs, agencies that have evaluated the Member. All such determinations must be made by qualified and trained Health Care Providers. A health care provider who makes such determinations of Medical Necessity is not considered to be providing a health care service under this Agreement.

2. **EPSDT. (Early and Periodic Screening Diagnosis and Treatment of Individuals Under the Age of 21)**

- (a) Participating Provider shall report encounter data/claims associated with EPSDT screens, using a format approved by DPW, to Avesis within ninety (90) days from the date of service.
- (b) EPSDT means the early and periodic screening, diagnosis and treatment of individuals under the age of twenty-one (21) conducted in accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1989 and Sections 1905(a) and (r)(5) of the Social Security Act, as well as, 42 CFR Part 441. Such screening, diagnosis and treatment shall be performed whether or not the service provided is a Covered Service.
- (c) Should Participating Provider be unable to conduct the necessary EPSDT screens for Members under 21, Participating provider is responsible for arranging to have the necessary EPSDT screens performed by another Participating Provider. All relevant medical information, including the results of the EPSDT screens, are to be incorporated into the Member's primary medical record.

3. **Member Encounters.**

Participating Provider shall submit encounter reports/claims to Avesis within one-hundred eighty (180) days of the date of service. Participating Provider shall submit encounter reports regardless of whether Avesis reimburses Participating Provider for the service, directly or indirectly, through capitation. Avesis and/or the DPW may impose penalties and/or sanctions in the event that Participating Provider fails to comply with this section.

4. **Non-discrimination.** Participating Provider shall provide Covered Services to Members in the same manner, in the same places and on the same days and times as Participating Provider renders services to patients who are not Members. Participating Provider shall not differentiate or discriminate in the treatment of or in the quality of services delivered to Members on the basis of age, race, color, national origin, religion, ancestry, marital status or participation in the Medical Assistance Program. Participating Provider further understands and agrees that no individual with a disability shall, on the basis of such disability, be denied services from or be excluded from receiving services from Participating Provider under this Agreement in accordance with the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq) and the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and its implementing regulations, as amended from time to time.
5. **Third-Party Resources.** Participating Provider immediately shall report to Avesis all new third party resources for Members identified through the provision of health care services.
6. **Commonwealth Hold-Harmless.** Participating Provider shall hold harmless the Commonwealth of Pennsylvania, its officers and employees and all Members in the event of non-payment by Avesis. Participating Provider shall further indemnify and hold harmless the Commonwealth, its agents, officers and employees against all injuries, death, losses, damages, claims, suits, liabilities, judgments, costs and expenses which may in any manner accrue against the Commonwealth or its agent, officers or employees, thought the intentional conduct, negligence or omission of Participating Provider, its agents, officers or employees, or Sponsor.
7. **Gag Clauses.** Nothing in the Agreement or Attachment shall be construed to be a gag clause that prohibits Participating Provider from disclosure of Medically Necessary or appropriate health care information or alternative therapies to Members, other health care professionals or DPW. Likewise, Participating Provider shall prohibit the use of gag clauses in its employee contracts that limit the disclosure of information pertaining to the HealthChoices Program. Avesis will not sanction, terminate, fail to renew or exclude Participating Provider from the network for discussing with Avesis the process that Avesis uses or proposes to use to deny payment for Covered Services or for discussing an adverse determination with Avesis including the State Dental Director or Chief Dental Officer; advocating for medically necessary and appropriate care with or on behalf of Member, including information regarding the nature of treatment, risks of treatment, alternative treatments or the availability of alternative therapies, consultations or tests; filing a grievance on behalf of and with the written consent of a Member or helping a Member file a grievance; or taking another action specifically permitted by Sections 2113, 2121 and 2171 of the DOH regulations, Department of Public Welfare or Act 68.
8. **Incentives.** Participating Provider and Avesis agree that any incentives shall be limited to those permissible under applicable Federal law and regulation. Additionally, Participating Provider shall disclose annually any Physician Incentive Plan arrangements it may have with physicians either within its group practice or other physicians not associated with the group practice even if there is no substantial financial risk between Avesis and the physician or Participating Provider.
9. **Member Outreach.** The Participating Provider shall conduct affirmative outreach whenever a Member misses an appointment and shall document this outreach in the Member's medical record. Such an effort shall be deemed to be reasonable if it includes three (3) attempts to contact the Member. Such attempts may include, but are not limited to: written attempts, telephone calls and home visits. At least one (1) such attempt must be a follow-up telephone call.
10. **Self-Referral.** There are some services which can be accessed without a referral from the Member's Primary Care Physician (PCP). Vision, dental care, obstetrical and gynecological (OB/GYN) services may be self-referred, provided the Member obtains the services from the PH-MCO's Provider Network.

11. **Records, Reports and Inspections.**

- (a) Participating Provider shall provide DPW, its designated representatives and/or federal agencies access to evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed under this Agreement.
- (b) Participating Provider shall maintain all books and records relating to the provision of services to Members enrolled in the Medical Assistance product and related expenditures, including reports to DPW and source information used in preparation of said reports. Such records shall include, but not be limited to, financial statement, records relating to quality of care, medical records and prescription files. Participating Provider shall comply with all standards of practice and medical record keeping, including, but not limited to, State law and regulation and accepted medical practice.
- (c) Avesis and Participating Provider shall, at their own expense, make all records available for audit, review or evaluation by the State, its designated representatives or Federal agencies. Access shall be provided either on-site, during normal business hours, or through mail. During the contract and record retention period, these records shall be available at Sponsor's chosen location, subject to approval by the Commonwealth. Avesis and Participating Provider shall fully cooperate with any and all reviews and/or audits by State or Federal agencies or their agents by assuring that appropriate employees and involved parties are available for interviews relating to reviews or audits. All records to be sent by mail shall be sent to the requesting entity in the form of accurate, legible paper copies, unless otherwise indicated, within fifteen (15) calendar days of such request and at no expense to the requesting entity. Such requests made by the Commonwealth shall not be unreasonable.
- (d) Participating Provider shall maintain books, records, documents and other evidence pertaining to all revenues, expenditures and other financial activity pursuant to this Agreement, as well as to all required programmatic activity and data pursuant to this Agreement. Records other than medical records may be kept in an original paper state or preserved on micromedia or electronic format. Medical records shall be maintained in accordance with State laws and regulations. These books, records, documents and other evidence shall be available for review, audit or evaluation by authorized Commonwealth personnel or their representatives during the contract period and ten (10) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case, records shall be kept until all tasks are completed.
- (e) Participating Provider shall retain source records for its data reports for a minimum of ten (10) years from the date of origination and must have policies and procedures in place for storing that information.

12. **Fraud and Abuse.** Participating Provider recognizes and agrees that all payments made by Avesis to Participating Provider for services provided to Members enrolled in the Medical Assistance product are derived from Federal and State funds. Participating Provider shall be held civilly and/or criminally liable to Avesis, Sponsor and DPW in the event of non-performance, misrepresentation, fraud or abuse.

13. **Quality and Utilization Management.** Participating Provider shall cooperate with Avesis and Sponsor's Quality Management and Utilization Management Program requirements. Participating Provider recognizes that Avesis shall monitor Participating Provider's performance on an ongoing basis and subject Participating Provider to formal review according to a period schedule established by DPW, consistent with industry standards and State laws and regulations including those of the American Academy of Pediatric Dentistry. In the event that Avesis identifies deficiencies or areas needing improvement, Avesis shall develop a corrective action plan and Participating Provider shall implement said plan.

14. Avesis Non-Discrimination.

- (a) Avesis shall not exclude or terminate Participating Provider from participation in Avesis' Provider Network:
- (i) due to the fact that Participating Provider has a practice that includes a substantial number of patients with expensive medical conditions; or
 - (ii) because the Participating Provider advocated on behalf of a Member for Medically Necessary and appropriate health care consistent with the degree of learning and skill ordinarily possessed by a reputable health care provider practicing according to the applicable legal standard of care; or
 - (iii) because Participating Provider filed a grievance on behalf of a Member.
- (b) Avesis shall not prohibit or restrict a health care provider acting within the lawful scope of practice from:
- (i) discussing Medically Necessary care and advising or advocating appropriate medical care with or on behalf of a Member including information regarding the nature of the treatment options, risks of treatment, alternative treatments, or the availability of alternative therapies, consultation or tests that may be self-administered; or
 - (ii) providing information that the Member needs in order to decide among all relevant treatment options and the risks, benefits and consequences of treatment or non-treatment.
- (c) Nothing herein shall be construed to require that Participating Provider provide a counseling or referral service if Participating Provider objects to the provision of such service on moral or religious grounds.
- (d) Avesis shall not discriminate with respect to participation, reimbursement or indemnification as to Participating Provider while Participating Provider is acting within the scope of Participating Provider's license or certification under applicable State law. This paragraph shall not be construed to prohibit Avesis from including providers only to the extent necessary to meet the needs of Avesis' Members or from establishing any measure designed to maintain quality and control costs consistent with Avesis' responsibilities.

15. Services to Fee For Service Medical Assistance Consumers. Participating Provider agrees that it will not deny services to a Medical Assistance Consumer during the Medical Assistance Fee For Service eligibility window prior to the effective date of that individual's enrollment with Sponsor. Participating Provider shall seek reimbursement from DPW for services rendered during this Fee For Service Eligibility window.

16. Continuation of Benefits. Participating Provider agrees that, in the event of Avesis or Sponsor's insolvency or other cessation of operations, Participating Provider shall continue to provide benefits to Members enrolled in Sponsor's Medical Assistance product through the period for which the premium has been paid, including Members in an inpatient setting.

17. Capitated Agreements Only. In the event that Avesis compensates Participating Provider on a capitated basis, Participating Provider, upon termination of this Agreement for any reason, shall provide services to Members assigned to Participating Provider until the end of the month in which the effective date of the termination of this Agreement falls.

18. **Compliance with State and Federal Law.** Participating Provider agrees that it shall comply with all State and federal laws and regulations applicable to the provision of services to Members and all other duties of Participating Provider hereunder.
19. **Copayments.** In the event that Avesis imposes copayments for certain Covered Services and a Member cannot afford to pay said copayment, Participating Provider must render Covered Services to the Member despite non-payment of the copayment by the Member. This Section shall not preclude Participating Provider from seeking payment for said copayments from Members after rendering Covered Services.
20. **Recipient Restriction Program.** Provider agrees to cooperate with Sponsor and DPW with regard to the DPW's Recipient Restriction Program. The specifics of the program are defined in the Provider Manual.

ATTACHMENT D

CHIP Product Regulatory Requirements

The following are the statutory and regulatory requirements for participation in the Avesis CHIP Dental Program for Sponsor, as may be amended from time to time. To the extent that the requirements set forth on this Attachment conflict with the provisions of the Agreement, the terms of this Attachment shall control.

1. **Medical Necessity.** For purposes of determinations of Medical Necessity of services provided to Members in Sponsor's CHIP Product, the following definition shall apply:

Services or supplies provided by a provider that are determined to be:

- a. in accordance with generally accepted standards of medical practice; and
- b. clinically appropriate, in terms of type, frequency, extent, site and duration, and considered effective for the patient's illness, injury or disease; and
- c. not primarily for the convenience of the patient, physician, or other health care provider, and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury or disease.

Avesis reserves the right to determine in its judgment whether a service is Medically Necessary. No benefits hereunder will be provided unless Avesis determines that the service or supply is Medically Necessary. Authorization decisions shall be made by Avesis with input from the Member's Participating Provider, or other health care provider providing service at the direction of the PCP, constituting proof of Medical Necessity for purposes of determining the Member's potential liability.

2. **Fraud and Abuse.** Participating Provider recognizes and agrees that all payments made by Avesis to Participating Provider for services provided to Members enrolled in the CHIP product are derived from Federal and State funds. Participating Provider shall be held civilly and/or criminally liable to Avesis, Sponsor and/or the PID in the event of non-performance, misrepresentation, submission of false or fraudulent statements and claims, or other fraud or abuse related to the program.
3. **Compliance with Federal and State Law.** Participating Provider shall comply with all laws and regulations applicable to individuals and entities receiving federal and state funds and all other applicable federal and State laws and regulations, including, but not limited to, those laws and regulations governing CHIP, Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, as well as their implementing regulations.