

# EXHIBIT “1”

**NATIONAL UNION FIRE INSURANCE COMPANY  
OF PITTSBURGH, PA**

2704 Commerce Drive, Suite B., Harrisburg, PA 17110

**ADMINISTRATIVE OFFICES: 70 Pine Street, New York, NY 10270**

(A Capital Stock Insurance Company)

**DENTISTS LIABILITY  
DECLARATIONS**

I hereby certify that the attached is a true  
and complete copy of our policy.

[Signature] 2/23/10  
Signature Date

Various provisions in the Common Policy Conditions and Coverage Parts restrict coverage. There may be both occurrence coverages and claims made coverages in this Policy.

**CLAIMS MADE COVERAGE IS LIMITED TO LIABILITY FOR CLAIMS FIRST MADE AGAINST AN INSURED AND REPORTED IN WRITING TO US DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD, IF APPLICABLE. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE THEREUNDER WITH YOUR INSURANCE AGENT OR BROKER**

Please read all Conditions and Coverage Parts carefully to determine rights, duties, and what is and what is not covered. A complete Policy includes the Declarations and the applicable Coverage Parts.

**POLICY NUMBER:** DNU3375848 **RENEWAL OF NUMBER:** Renewal

**Item 1. FIRST NAMED INSURED:** Small Smiles Holding Company

**Item 2. ADDRESS:** 618 Church Street #520, Nashville, TN 37219

**Item 3. (a) RETROACTIVE DATE – CLAIMS MADE COVERAGE PART ONLY, IF APPLICABLE:**

**PROFESSIONAL LIABILITY** 02/01/2001  
**EMPLOYMENT-RELATED PRACTICES LIABILITY** \_\_\_\_\_  
**MEDICAL WASTE DEFENSE EXPENSES** \_\_\_\_\_  
**BILLING ERRORS AND OMISSIONS** 09/26/2007  
**ERISA FIDUCIARY LIABILITY** \_\_\_\_\_

**(b) POLICY PERIOD:** From: 09/26/2009 To: 09/26/2010  
at 12:01 a.m. Standard Time at your mailing address shown above.

**(c) OPTIONAL EXTENDED REPORTING PERIOD:** To Be Determined

**Item 4. DESCRIPTION OF OPERATIONS:** Dental Practice

**Item 5. LIMITS OF INSURANCE**

(a) Professional Liability Coverage Part Claims Made	
Each Dental Incident per Individual Named Insured Dentist Limit	\$ 5,000,000
Each Dental Incident All Other Insureds Combined Limit	\$ None
Individual Named Insured Dentist Aggregate Limit	\$ 6,000,000
All Other Insureds Aggregate Limit	\$ None
Deductible	\$ None
Deductible Aggregate	\$ Not Applicable
Each Property Damage Incident	\$ 500
License Protection Coverage	\$ 50,000
Peer Review Committee Coverage	\$ 50,000
Medical Payments per Injured Patient	\$ 10,000
Medical Payments Aggregate Limit	\$ 10,000
(b) Commercial General Liability Coverage -Occurrence	
General Aggregate Limit	\$ Not Covered
Products-Completed Operations Aggregate Limit	\$ Not Covered
Personal and Advertising Injury Limit	\$ Not Covered
Each Occurrence Limit	\$ Not Covered
Damage to Premises Rented to You Limit	\$ Not Covered
Medical Expense Limit	\$ Not Covered

- |     |   |                |
|-----|---|----------------|
| (c) | Hired Auto and Non-Owned Auto Liability- Occurrence<br>Bodily Injury and Property Damage Liability Combined |                |
|     | Hired Auto and Non-Owned Auto Liability Each Occurrence Limit   | \$ Not Covered |
|     | Hired Auto and Non-Owned Auto Liability Aggregate Limit   | \$ Not Covered |
| (d) | Employee Benefits Liability Coverage - Occurrence   |                |
|     | Each Employee Limit   | \$ Not Covered |
|     | Aggregate Limit   | \$ Not Covered |
| (e) | Employment - Related Practices Liability - Claims Made  |                |
|     | Each Wrongful Act   | \$ Not Covered |
|     | Aggregate Limit   | \$ Not Covered |
|     | Deductible  | \$ None        |
| (f) | Medical Waste Defense Expenses Legal Reimbursement Coverage Part  |                |
|     | Each Suit Defense Expenses Limit  | \$ Not Covered |
|     | Aggregate Defense Expenses Limit  | \$ Not Covered |
| (g) | Billing Error and Omissions Coverage- Claims Made   |                |
|     | Each Wrongful Act   | \$ 25,000      |
|     | Aggregate Limit   | \$ 25,000      |
| (h) | ERISA Fiduciary Liability Coverage Part -Claims Made  |                |
|     | Each Wrongful Act   | \$ Not Covered |
|     | Aggregate Limit   | \$ Not Covered |

**Item 6. PREMIUM**

Premium: \$142,083.00

Taxes, Fees and/or Surcharges: \$0.00

**Item 7. FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION - See Forms Schedule**

**Item 8. PRODUCER NAME AND ADDRESS**

Dentist's Advantage Program  
Affinity Insurance Services, Inc.  
159 East County Line Road  
Hatboro, PA 19040

By signing below, the President and the Secretary of the Company agree on behalf of the Insurer to all the terms of this Policy.

*Andrew N. Holland*

Secretary

*[Signature]*

President

This Policy shall not be valid unless signed at the time of issuance by an authorized representative of the Insurer, either below or on the policy.

*[Signature]*

Authorized Representative

By \_\_\_\_\_  
Countersignature (In States Where Applicable)

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. Inspections And Surveys

1. We have the right to:
  - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
  - a. Are safe or healthful; or
  - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

### E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

### F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT**

(Broad Form)

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
FARM COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY

**1. The insurance does not apply:**

**A. Under any Liability Coverage, to "bodily injury" or "property damage":**

- (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

**B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.**

**C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:**

- (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
- (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
- (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

**2. As used in this endorsement:**

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

## **ENDORSEMENT**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 a.m. 09/26/2009 forms a part of  
Policy No. DNU3375848 issued to Small Smiles Holding Company;  
By Affinity Insurance Services, Inc.

### **DENTISTS LIABILITY**

#### **AMENDMENT OF EXCLUSIONS**

This endorsement modifies insurance provided under the following:

##### **PROFESSIONAL LIABILITY COVERAGE PART**

Paragraph P. of Section II. **EXCLUSIONS**, is deleted in its entirety.

All other terms, conditions and exclusions of the policy remain the same.



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Authorized Representative

<b>NOTICE</b>
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**Claim Reporting Instructions**

Intercare Insurance Services is the claims administrator for matters covered under your Dentist's Liability Coverage. A claim must be reported to Intercare Insurance Services for assignment to a Claims Professional. Please contact Intercare Insurance Services at the following address and/or telephone number:

Intercare Insurance Services, LLC  
P.O. Box 52810  
Bellevue, WA 98015

Toll Free Number: 1-800-848-2686  
Main Local Number: 425-636-1000  
Fax Number: 425-636-1050

This means you have a simple way to notify us of a claim in accordance with the terms and conditions of your policy. Please refer to your policy for definition of a claim and reporting obligations.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT  
CAREFULLY.**

**ENDORSEMENT #**

This endorsement, effective 12:01 A.M. 09/26/2009 forms a part of

Policy No. DNU3375848 issued to Small Smiles Holding Company;

By Affinity Insurance Services, Inc.

**COVERAGE TERRITORY ENDORSEMENT**

*This endorsement modifies insurance provided under the following:*

Payment of loss under this policy shall only be made in full compliance with all United States of America economic or trade sanction laws or regulations, including, but not limited to, sanctions, laws and regulations administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").



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**AUTHORIZED REPRESENTATIVE**

**POLICYHOLDER NOTICE**

Thank you for purchasing insurance from a member company of American International Group, Inc. (AIG). The AIG member companies generally pay compensation to brokers and independent agents, and may have paid compensation in connection with your policy. You can review and obtain information about the nature and range of compensation paid by AIG member companies to brokers and independent agents in the United States by visiting our website at [www.aigproducercompensation.com](http://www.aigproducercompensation.com) or by calling AIG at 1-800-706-3102.



**Dentist's Advantage**  
PROFESSIONAL LIABILITY & PRACTICE PROTECTION

## **Claims-Made Policy**

Professional Liability Insurance



**NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA**

2704 Commerce Drive, Suite B., Harrisburg, PA 17110

**ADMINISTRATIVE OFFICES: 70 Pine Street, New York, NY 10270**

(A Capital Stock Insurance Company)

## **DENTISTS LIABILITY**

### **PROFESSIONAL LIABILITY COVERAGE PART**

#### **CLAIMS MADE**

THIS POLICY PROVIDES CLAIMS MADE COVERAGE. THE RETROACTIVE DATE FOR YOUR CLAIMS MADE COVERAGE IS THE FIRST EFFECTIVE DATE OF COVERAGE WITH US, UNLESS WE MUTUALLY AGREE ON A DIFFERENT DATE. THERE IS NO COVERAGE FOR INCIDENTS, OCCURRENCES OR ALLEGED WRONGFUL ACTS THAT TOOK PLACE PRIOR TO THE RETROACTIVE DATE STATED IN YOUR POLICY.

DURING THEIR INITIAL YEARS, CLAIMS MADE POLICIES GENERALLY CHARGE LOWER RATES THAN OCCURRENCE POLICIES. RATES FOR CLAIMS MADE POLICIES WILL INCREASE OVER TIME. YOU MAY SEE SUBSTANTIAL INCREASES, INDEPENDENT OF OVERALL RATE INCREASES, UNTIL THE CLAIMS MADE RELATIONSHIP REACHES MATURITY.

THIS POLICY WILL COVER ONLY CLAIMS ACTUALLY MADE AGAINST YOU, OR DENTAL INCIDENTS PROPERLY REPORTED TO US, WHILE THE POLICY REMAINS IN EFFECT. ALL COVERAGE UNDER THE POLICY CEASES UPON THE POLICY'S TERMINATION, EXCEPT FOR BASIC EXTENDED REPORTING PERIOD COVERAGE. YOU MAY ALSO PURCHASE, FOR AN ADDITIONAL CHARGE, SUPPLEMENTAL EXTENDED REPORTING PERIOD COVERAGE.

THE LENGTH OF BASIC EXTENDED REPORTING PERIOD COVERAGE IS SIXTY (60) DAYS FOR CLAIMS NOT PREVIOUSLY REPORTED TO US.

SUPPLEMENTAL EXTENDED REPORTING PERIOD COVERAGE MAY BE PURCHASED BY ENDORSEMENT FOR A PERIOD OF UNLIMITED DURATION.

In consideration of the payment of the premium and in reliance on all statements made and information furnished to us in the Application, we agree to this Policy as a contract with you.

Throughout this Policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section III. **WHO IS AN INSURED.**

Other words and phrases that are enclosed in quotations have special meaning. Refer to SECTION VI. **DEFINITIONS.**

#### **I. COVERAGE AGREEMENTS**

- A. We will pay on behalf of the insured those sums that the insured becomes legally obligated to pay as "damages" because of a "dental incident", provided that:
  - 1. The "dental incident" occurs on or after the Retroactive Date shown in the Declarations and prior to the end of the "policy period"; and

2. The "claim" for "damages" is first made against any insured, in writing, during the "policy period" or any Extended Reporting Period we provide under Section VIII. Extended Reporting Period.

- B. We have the right and duty to defend the insured against any "claim" to which this insurance applies, even if the allegations in such "claim" are groundless, false, or fraudulent. However, we have no duty to defend the insured against any "claim" to which this insurance does not apply.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Section V. **SUPPLEMENTARY PAYMENTS.**

- C. We have the right to investigate, defend, and appoint an attorney to defend any "suit" as we deem expedient. However, we will not settle any "claim" or "suit" without the consent of the designated representative of the first Named Insured. Such consent may not be unreasonably withheld.
- D. The amount we will pay for "damages" is limited as described in Section IV. **LIMITS OF INSURANCE.** We will not be obligated to defend any "claim" after the Limits of Insurance have been exhausted by the payment of judgments or settlements.
- E. This insurance applies to "damages" arising out of a "dental incident" that occurs anywhere in the world, provided that the "claim" is brought within the United States of America, its territories or possessions, Puerto Rico, or Canada.

## II. EXCLUSIONS

This insurance does not apply:

- A. To a "dental incident" which occurred prior to the inception date of this policy if an insured knew, or reasonably should have known, that the "dental incident" could result in, or had already resulted in, a "claim".
- B. To a "dental incident" arising out of any dishonest, fraudulent, criminal, or knowingly wrongful act, error, or omission committed by or at the direction of any insured.
- C. To any sexual act, including without limitation sexual intimacy (even if consensual), sexual contact, sexual advances, requests for sexual favors, sexual molestation, sexual assault, sexual abuse, sexual harassment, sexual exploitation or other verbal or physical conduct of a sexual nature. However, this exclusion does not apply to:
1. Any specific individual insured who allegedly committed such sexual misconduct, unless it is judicially determined that the specific individual insured committed the sexual misconduct. If it is judicially determined that the specific individual insured committed the sexual misconduct we will not pay any "damages".
  2. Any other insured, unless that insured:
    - a. Knew or should have known about the sexual misconduct allegedly committed by the specific individual insured, but failed to prevent or stop it; or
    - b. Knew or should have known that the specific individual insured who allegedly committed the sexual misconduct had a prior history of such sexual misconduct.

We will defend "claims" alleging such acts until final adjudication.

As used in this exclusion, specific individual insured includes employees and authorized volunteer workers while performing duties related to the conduct of your business.

**D. To the following:**

1. "Bodily injury" to an employee of yours arising out of and in the course of:
  - a. Employment by you; or
  - b. While performing duties related to the conduct of your business; or
2. "Claims" or "suits" by a spouse, child, parent, grandparent, brother, or sister of that employee as a consequence of Subparagraph **D.1.**, above.

This exclusion applies:

1. Whether you may be liable as an employer or in any other capacity; and
  2. To any obligation to share "damages" with or repay someone else who must pay "damages" because of the injury.
- E.** To any obligation of the insured under any workers' compensation, unemployment compensation or disability benefits law or under any similar law.
- F.** To the refusal to employ, termination of employment, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, or other practices or policies related to employment or professional privileges.

This exclusion does not apply to services by any person as a member of your formal accreditation, standards review or similar professional board or committee otherwise covered by this Policy.

**G. Any liability you assume under any contract or agreement.**

This exclusion does not apply to:

1. Liability that you would have in the absence of a contract or agreement;
  2. Liability you assume in a written contract with:
    - a. A Health Maintenance Organization;
    - b. A Preferred Provider Organization;
    - c. An Independent Practice Association; or
    - d. Any other similar organization;but only for such liability as is attributable to an insured's alleged negligence arising out of "professional services"; or
  3. A warranty of fitness or quality of any therapeutic agents or supplies an insured has furnished or supplied in connection with treatment that has been performed.
- H.** To any "claim" for which any insured may be held liable as a proprietor, administrator, officer, stockholder, or member of the board of directors, trustees or governors of any hospital, sanitarium, clinic with bed and board facilities, nursing home, laboratory or other enterprise not named in the Declarations.
- I.** To a "dental incident" which involves the use of intravenous or intramuscular injections or "general anesthesia".

This exclusion does not apply:

1. When the intravenous or intramuscular injections or "general anesthesia" are administered by a licensed provider of anesthetic services, other than the insured; or
  2. To the use of intravenous or intramuscular injections to render "conscious sedation" in emergency situations where a life threatening or potential permanent injury exists.
- J. To a "dental incident" which occurs while an insured's professional license as required by law is suspended, expired, canceled, revoked, or otherwise invalid.
- K. To a "dental incident" arising out of the prescribing or dispensing of any drugs, pharmaceuticals, or controlled substances:
1. By anyone without the appropriate license, registration or certification; or
  2. That are not approved for use in the treatment of human beings by the United States Food and Drug Administration.
- L. To a "dental incident" arising from an insured's actions while on active duty in the United States Military Service or Reserve, National Guard unit and/or Public Health Service.
- M. Resulting in any "damages", in whole or in part for any of the following:
1. The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
  2. Any request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
  3. Any "claim" or "suit" by or on behalf of a government authority for "damages" because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, or neutralizing, or in any way responding to, or assessing the effects of "pollutants".
- N. To nuclear fission, nuclear fusion or radioactive contamination.

This exclusion does not apply to "professional services" arising out of the practice of Nuclear Medicine.

- O. To a "dental incident" expected or intended by any insured or by any person for whose acts, errors or omissions an insured may be held liable.
- P. To a "dental incident" arising out of the rendering or failure to render any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy.

### **III. WHO IS AN INSURED**

- A. If you are shown in the Declarations as:

1. An individual dentist, you and your spouse are insureds, but only with respect to the conduct of your "dental business";
2. A partnership or joint venture, you, your members and your partners and their spouses are insureds, but only with respect to the conduct of your "dental business";
3. A limited liability company, you and your members are insureds, but only with respect to the conduct of your dental business;
4. A "dental corporation" or an organization other than a partnership, joint venture, or limited liability company, you are an insured but only with respect to the conduct of your "dental business". Your executive officers, directors and shareholders are insureds, but only with respect to the conduct of your "dental business".

**B.** Each of the following is also an insured:

1. Your employees, other than executive officers, employed dentists, physicians, other medical doctors or nurse anesthetists, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your "dental business"; and
2. Temporary substitute dentists (locum tenens), but only for a "dental incident" which occurred while working on your behalf and then only if you have notified us and received our approval to add the locum tenens dentist by endorsement prior to the "dental incident".
3. Any licensed dental hygienist with whom you have contracted to provide dental services in connection with your dental practice, but only for acts, errors or omissions committed while acting within the course of his or her duties.
4. Any insured while providing "professional services" as a Good Samaritan away from your premises in sudden or unforeseen emergencies outside the scope of his or her patient care duties for you, provided that, no remuneration is demanded, expected or received.

No person, "dental corporation" or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

#### **IV. LIMITS OF INSURANCE**

- A.** Subject to **B.** below, and regardless of the number of "claims" made or "suits" brought, the most we will pay for "damages" arising out of any one "dental incident" is the Limit of Insurance stated in the Declarations. This limit shall apply separately:
1. To each individual dentist shown as a Named Insured in the Declarations as stated in Subparagraph **A.1.** of **Section III., WHO IS AN INSURED** ;and
  2. To all Named Insureds and all additional insureds collectively, other than those subject to paragraph 1., above. This limit applies regardless of the number of insureds under the policy.
- B.** The most we will pay for the sum of all "damages" to which this insurance applies is the Limit of Insurance shown in the Declarations as Aggregate.
- C.** The Limits of Insurance apply separately to each consecutive annual period and to any remaining period of less than twelve months, starting with the beginning of the "policy period" shown in the Declarations, unless the "policy period" is extended after issuance for an additional period of less



than twelve months. In that case, the additional period will be considered part of the last preceding period for purposes of determining the Limits of Insurance.

- D. Subject to Paragraphs A. B., and C. above, all "claims" arising from one "medical incident" or a series of related "medical incidents" to any one person shall be deemed to have occurred at the time of the first "medical incident" regardless of the number of claimants, or the number of insureds against whom such claims are made.

## V. SUPPLEMENTARY PAYMENTS

- A. We will pay, with respect to any "claim" we investigate or settle or any "suit" against an insured we defend:
1. All expenses we incur, all costs taxed against the insured in the "suit", and all interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court that part of the judgment which does not exceed the applicable Limit of Insurance.
  2. The cost of appeal bonds required in any such "suit" and the cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.
  3. Reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of any "claim" or "suit", including actual loss of earnings up to \$500 per day for the insured's attendance at hearings or trials.

These payments will not reduce the Limits of Insurance.

- B. Subject to the terms and limits listed in each paragraph below, we will provide the following coverages in addition to the Limits of Insurance:

### 1. Property Damage Coverage

- a. We will reimburse your patient for "property damage" sustained while on your office premises for the purpose of receiving "professional services", provided that:
- (1) The "property damage" occurs during the "policy period"; and
  - (2) You report the "property damage" to us as soon as practicable during the "policy period" or any Extended Reporting Period we provide as described in Section VIII. **EXTENDED REPORTING PERIOD.**
- b. The most we will pay under this coverage per "property damage" incident is the amount shown in the Declarations.

### 2. License Protection Coverage

- a. We will pay for reasonable legal expenses incurred by us to defend you in a proceeding brought by a state licensing board or governmental body. The proceeding must be related to a "dental incident" otherwise covered by this insurance.
- b. You must provide us with written notice of the proceeding as soon as practicable.
- c. The most we will pay under this coverage is the amount shown in the Declarations.

### **3. Peer Review Committee Coverage**

- a. We will pay for reasonable legal expenses incurred by us to investigate and defend a legal action brought against you arising out of your service on a peer review committee, utilization review committee, or similar committee associated with a Health Maintenance Organization (HMO), Preferred Provider Organization (PPO), Independent Practice Association (IPA), or American Dental Association and/or its components provided that:
  - (1) The service on the committee occurred after the Retroactive Date shown in the Declarations and prior to the end of the "policy period"; and
  - (2) We receive notice of the legal action as soon as practicable during the "policy period" or any Extended Reporting Period we provide as described in Section **VIII. EXTENDED REPORTING PERIOD**.
- b. The most we will pay under this coverage is the amount shown in the Declarations.

### **4. Medical Payments Coverage**

- a. We will pay for reasonable and necessary medical expenses arising out of a "dental incident" to your patient while on your premises for the purpose of receiving "professional services".
- b. We will pay up to the maximum limit per injured patient and the total limit for the "policy period" shown in the Declarations. We will pay reasonable expenses for:
  - 1. First aid at the time of the "dental injury";
  - 2. Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
  - 3. Necessary ambulance, hospital professional nursing and funeral services.

## **VI. DEFINITIONS**

- A. "Bodily injury" means physical injury, sickness or disease sustained by a person, including mental anguish or death resulting from any of these at any time.
- B. "Claim" means a "suit" or demand made by or for the injured person for "damages" to which this insurance applies.
- C. "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof. For purposes of this insurance, the use of nitrous oxide/oxygen and/or oral pre-medication, used in an accepted therapeutic dose to induce a sedative effect or to reduce anxiety, is not considered "conscious sedation".
- D. "Damages" means all the sums that the insured becomes legally obligated to pay. Damages do not include:
  - 1. Administrative, civil or criminal penalties, fines or sanctions;

2. Payment for "professional services", including the waiver, return, withdrawal or reduction of fees paid to the insured or payment by the insured of fees for "professional services" provided by others; or
  3. Punitive or exemplary damages.
- E. "Dental business" means operations or activities on premises used by you in the practice of your dental profession. "Dental business" includes operations necessary or incidental to those premises.
- F. "Dental corporation" means a professional service corporation organized under the corporation law of your state for the purpose of performing "professional services".
- G. "Dental incident" means any act, error or omission in the rendering of or failure to render "professional services" by:
1. An insured; or
  2. Any person for whose acts, errors or omissions you are held legally liable.
- H. "General anesthesia" includes deep sedation and means a controlled state of depressed consciousness or unconsciousness, accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method, or combination thereof.
- I. "Policy period" means the period starting on the effective date of this policy as shown in the Declarations. This period ends on the earlier of the expiration date shown in the Declarations or on the effective date of cancellation of this policy.
- J. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, lead, asbestos, acids, alkalis, chemicals, mercury and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed, and liquid or solid material carried off with groundwater in sewers or drains;
- K. "Professional services" means dental services provided to others by a person trained and qualified to perform those services pursuant to a valid and unrestricted dental, dental hygiene, or dental assisting certificate or license. Such services include service as:
1. An officer or member of any committee of the American Dental Association or any of its committees or societies;
  2. An officer or member of a formal accreditation, standards review or other professional board or committee related to a professional dental society or a hospital;
  3. A consultant, including a consultant to an organization which provides or administers dental service payment plans.
  4. An expert witness while giving testimony under oath.
  5. The performance of or failure to perform autopsies.

"Professional Services" also include the writing of books, papers and articles on the technical aspects of a professional dentistry practice, if they are published or distributed by a recognized technical or professional publisher.

- L. "Property damage" means partial or total physical injury to tangible property, including resulting loss of use of that property. "Property damage" also means loss of use of tangible property that is not physically injured. "Property damage" includes all forms of radioactive contamination of property.
- M. "Suit" means a civil proceeding in which "damages" to which this insurance applies are alleged. "Suit" includes:
  - 1. An arbitration proceeding in which such "damages" are claimed and to which the insured must submit or does submit with our consent; or
  - 2. Any other alternative dispute resolution proceeding in which such "damages" are claimed and to which the insured submits with our consent.

## VII. CONDITIONS

### A. Duties In The Event Of A "Dental Incident", "Claim", Or "Suit"

- 1. If during the "policy period", the first Named Insured shall become aware of any "dental incident" which may reasonably be expected to give rise to a "claim" being made against any insured, the first Named Insured must notify us in writing as soon as practicable. To the extent possible, notice should include:
  - a. How, when, and where the "dental incident" took place;
  - b. The names and addresses of any injured persons and witnesses; and
  - c. The nature and location of any injury or damage arising out of the "dental incident".Any "claim" arising out of such "dental incident" which is subsequently made against any insured and reported to us, shall be considered first made at the time such notice was given to us.

Receipt by us of an incident report, including but not limited to variance reports, will not be considered a claim to us.

Any observance or reporting to the first Named Insured by us of any physical condition or other circumstance as a result of inspections, audits, engineering, loss control or risk management services shall not be considered a claim to us.
- 2. If a "claim" or "suit" is brought against an insured arising out of a "dental incident", the first Named Insured must:
  - a. Immediately record the specifics of the "claim" or "suit" and the date received;
  - b. Provide us with written notice of the "claim" or "suit" as soon as practicable; and
  - c. Immediately send us copies of any demands, notices, summonses, or legal papers received in connection with the "claim" or "suit".
- 3. The insured shall:
  - a. Cooperate with us in the investigation, settlement, or defense of the "claim" or "suit"; and

- b. Assist us upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

The insured shall not admit any liability, assume any financial obligation or pay out any money without our prior consent. If the insured does so, it will be at the insured's own expense.

## **B. Legal Action Against Us**

1. No person or entity has a right under this insurance:
  - a. To join us as a party or otherwise bring us into a lawsuit asking for "damages" from an insured; or
  - b. To sue us unless all of the policy terms have been fully complied with.
2. A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured, but we will not be liable for "damages" that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.

## **C. Other Insurance**

1. If other valid and collectible insurance is available to an insured for "damages" we cover under this insurance, then this insurance is excess over any other such insurance. When this insurance is excess over other insurance, we will have no duty to defend against any "suit" if any other insurer has a duty to defend against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the rights of the individual dentist against all those other insurers.

When this insurance is excess over other insurance, we will pay, up to the applicable limits of insurance, the amount of the loss that exceeds the sum of the total amount that all such other insurance would pay for the loss in the absence of this insurance.

If other insurance is also excess, we will share the remaining loss with that other insurance.

2. If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

## **D. Transfer Of Rights Of Recovery Against Others To Us (Subrogation)**

If an insured has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

## **E. Assignment**

Your rights and duties under this insurance may not be transferred. If you die or are judged incompetent, this insurance will cover your legal representative as an insured with respect to a "dental incident" covered by this insurance.

## **F. Representations**

By accepting this policy, you agree that the statements and representations made in the application are true and are the basis for acceptance of the risk assumed by us. In the event that any material statement or representation made in the application is untrue, this policy in its entirety will be void at inception.

## **G. Sole Agent**

The first Named Insured shown in the Declarations will act on behalf of all insureds with respect to giving and receiving notice of cancellation, accepting any endorsement issued to form a part of this policy, and receiving return premium, if any. The first Named Insured must notify us within 30 days of any change which might affect the terms of this insurance, including a change in members, partners, officers, directors, stockholders, professional employees, or dental specialty.

## **H. Insolvency**

Bankruptcy or insolvency of the insured or the insured's estate will not relieve us of any of our obligations under this insurance.

## **I. Premium**

All premiums for this policy shall be computed in accordance with our rates, rules and rating plans applicable to this insurance.

## **J. Separation of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this insurance to the first Named Insured, this insurance applies:

1. As if each Named Insured were the only Named Insured; and
2. Separately to each insured against whom claim is made or "suit" is brought.

## **K. Conformance To Statute**

To the extent that this Policy conflicts with any law, statute, or regulation applicable to this Policy, this Policy shall conform to the minimum requirements of that law, statute, or regulation.

## **L. Omnibus Reconciliation Act**

We will comply with the requirements of section 952 of the Omnibus Reconciliation Act of 1980. Upon written request, we will allow the secretary of health and human resources and the comptroller general access to the policy and necessary books, documents and records to verify the cost of the policy, to the extent required by law. Access will also be allowed to a subcontractor between us and any affiliated organization of ours and to its books, documents and records. Such access will be provided up to four years after the services furnished under this policy end.

## **VIII. EXTENDED REPORTING PERIOD**

### **A. Automatic Extended Reporting Period**

1. If we cancel or non renew this Coverage Part for any reason other than non-payment of premium, and if the Optional Extended Reporting Period Endorsement is not purchased, then we will provide an automatic extended reporting period of sixty (60) days, starting with the

end of the "policy period", during which "claims" arising out of "dental incidents" which take place on or after the retroactive date stated on the Declarations Page but before the end of the "policy period" may be first made.

2. The automatic extended reporting period does not extend the "policy period" or change the scope of coverage provided. Any "claim" first made during the automatic extended reporting period shall be deemed to have been made on the last day of the "policy period".
3. The automatic extended reporting period, however, will not apply to "claims" if other insurance purchased by insureds covers them or would have covered them had its limits of insurance of such policy not been exhausted.
4. The Aggregate Limits of Insurance applicable to this Coverage Part shall not be increased or reinstated for the automatic extended reporting period.
5. Our offer of terms, conditions or premium different from the expiring Policy or Coverage Part shall not be considered a refusal or failure to renew this insurance.

#### **B. Optional Extended Reporting Period**

1. If the first Named Insured or we cancel or do not renew this insurance, the first Named Insured shall have the option to purchase an Optional Extended Reporting Period Endorsement, beginning with the end of the "policy period". The additional premium for and the term of the Optional Extended Reporting Period Endorsement shall be as stated in the Declarations. The first Named Insured can not purchase this Endorsement if we cancel for non-payment of premium.
2. The Optional Extended Reporting Period Endorsement applies only to "claims" first made against the insured during the Optional Extended Reporting Period and arising from "dental incidents" which take place on or after the retroactive date stated in the Declarations Page and before the end of the "policy period". The Aggregate Limits of Insurance applicable to this Coverage Part shall not be increased or reinstated for "claims" under the Endorsement. "Claims" first made during the Optional Extended Reporting Period Endorsement shall be deemed to have been made on the last day of the "policy period".
3. To obtain an Optional Extended Reporting Period Endorsement the first Named Insured must request it in writing within sixty (60) days after the "policy period" ends and pay the premium due. If the first Named Insured does so, the premium shall be fully earned and the Extended Reporting Period Endorsement cannot be canceled. If we do not receive the written request and payment within sixty (60) days after the "policy period" ends, the first Named Insured may not exercise this option at a later date.
4. The insurance provided under the Extended Reporting Period Endorsement is excess over any other valid and collectible insurance that begins or continues in effect after the Extended Reporting Period Endorsement becomes effective, whether the other insurance applies on a primary, excess, contingent, or any other basis.
5. Our offer of terms, conditions or premium different from the expiring Policy or Coverage Part shall not be considered a refusal or failure to renew this insurance.
6. An Optional Extended Reporting Period Endorsement for you is applicable in the event of death, disability, or retirement with the following terms and conditions:
  - a. An Optional Extended Reporting Period Endorsement will be issued to you or to your estate at no charge if you die or become permanently disabled during the "policy period". The first Named Insured or your estate must, within sixty (60) days after the end of this "policy period", write to tell us the coverage is desired. We also require:
    - (1) Written proof of your death; or

- (2) Written proof of your permanent disability, including the date it happened, certified by your attending physician. You must agree to submit to medical examination(s) by any physician(s) we designate if requested.
- b. We shall offer you an Optional Extended Reporting Period Endorsement for no charge using the standard underwriting practices in accordance with state requirements if:
  - (1) you are at least fifty (50) years of age;
  - (2) you have been insured by us consecutively for at least five (5) years at the time of your request; and
  - (3) you retire during the "policy period".
- c. The Limits of Insurance under this Policy at the time of termination, death, disability or retirement will be the Limits of Insurance applying to the Optional Extended Reporting Period.
- d. Any Aggregate Limits of Insurance applicable to this Policy do not increase or reinstate for the optional extended reporting period.



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## ENDORSEMENT

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 a.m. 09/26/2009

forms a part of

Policy No. DNU3375848

issued to Small Smiles Holding Company;

By Affinity Insurance Services, Inc.

### OTHER COVERAGE PARTS EXCLUSION

This endorsement modifies insurance provided under the following:

DENTISTS PROFESSIONAL LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
EMPLOYMENT – RELATED PRACTICES LIABILITY COVERAGE FORM  
MEDICAL WASTE DEFENSE EXPENSES REIMBURSEMENT COVERAGE PART  
ERISA FIDUCIARY LIABILITY COVERAGE PART

The following exclusion is added:

#### **Other Coverage Parts**

This insurance does not apply to any claim or suit brought under any provision of this Coverage Part if such claim or suit is covered under another Coverage Part.

All other terms, conditions and exclusions of the policy remain the same.



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Authorized Representative

## ENDORSEMENT

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 a.m. 09/26/2009 forms a part of

Policy No. DNU3375848 issued to Small Smiles Holding Company;

By Affinity Insurance Services, Inc.

### SCHEDULE OF NAMED INSURED

This endorsement modifies insurance provided under the following:

#### DECLARATIONS

Item 1. of the Declarations is amended to include the following:

#### SCHEDULE

##### Named Insured

Per Schedule on File with Agent

##### Retroactive Date

Per Schedule on File with Agent

All other terms, conditions and exclusions of the Policy remain unchanged.



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Authorized Representative

**Owners - Entity renewal 9/26/09**

FORBA Holdings, LLC

◀ UPDATE - FORBA should be in all capital letters

FORBA NY, LLC

◀ UPDATE - formerly Sanus NY, LLC

FORBA Services, Inc.

◀ UPDATE - formerly Sanus Services, Inc.

EEHC, Inc.

◀ ADD

Small Smiles Holding Company, LLC

SS Holding Company, Inc.

◀ DELETE - not applicable

◀ DELETE - not applicable

Adolph Padulla, DDS

## FORMS SCHEDULE

**Named Insured:** Small Smiles Holding Company

**Policy Number:** DNU3375848

**Effective Date 12:01 AM:** 09/26/2009

<u>Sequence Number</u>	<u>Form Name</u>	<u>Form Number/ Edition Date</u>
1	Common Policy Conditions	IL 00 17 11 98
2	Nuclear Energy Liability Exclusion Endorsement	IL 00 21 09 08
3	Dentists Liability Amendment of Exclusions	100226 (9/08)
4	Claim Reporting Instructions	100785 (12/08)
5	Coverage Territory Endorsement	89644 (7/05)
6	Policy Holder Notice	91222 (7/06)
7	Dentist's Liability Declaration Page	98944 (4/08)
8	Claims Made – Professional Liability Coverage Part	98948 (4/08)
9	Other Coverage Parts Exclusion	98954 (4/08)
10	Schedule of Named Insureds	98978 (4/08)
11	Forms Schedule	98977 (4/08)
12	Tennessee Amendatory Endorsement	86057 (4/08)
13	Tennessee Cancellation/Nonrenewal Amendatory Endorsement	52169 (7/96)
14	Additional Insured Endorsement	86037 (4/08)
15	Billing Errors and Omissions Coverage Endorsement	98950 (4/08)
16	General Anesthesia Endorsement	99205 (5/08)

## ENDORSEMENT

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 a.m. 09/26/2009

forms a part of

Policy No. DNU3375848

issued to Small Smiles Holding Company;

By Affinity Insurance Services, Inc.

### TENNESSEE AMENDATORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

PROFESSIONAL LIABILITY COVERAGE PART  
COMMON POLICY CONDITIONS

The PROFESSIONAL LIABILITY COVERAGE PART is amended as follows:

Paragraph D. of Section VI. DEFINITIONS is deleted in its entirety and replaced with the following:

D. "Damages" means all the sums that the insured becomes legally obligated to pay. Damages do not include:

1. Administrative, civil or criminal penalties, fines or sanctions;
2. Payment for "professional services", including the waiver, return, withdrawal or reduction of fees paid to the insured or payment by the insured of fees for "professional services" provided by others.

The COMMON POLICY CONDITIONS are amended as follows:

Paragraph 3. is added to Section E Premiums as follows:

3. Whenever an insurance policy which is financed with a premium finance company is cancelled, the insurer shall return, within 30 days after the effective date of the cancellation, whatever gross unearned premiums are due under the insurance policy directly to the premium finance company for the account of the first Named Insured

All other terms, conditions and exclusions of the policy remain unchanged.



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Authorized Representative

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## ENDORSEMENT

This endorsement, effective, 12:01 AM, 09/26/2009

forms a part of

policy no.: DNU3375848

issued to Small Smiles Holding Company;

by: Affinity Insurance Services, Inc.

### TENNESSEE CANCELLATION/NONRENEWAL AMENDATORY ENDORSEMENT

Wherever used in this endorsement: 1) "Insurer" means the insurance company which issued this policy; and 2) "Named Insured", means the Named Corporation, Named Organization, Named Sponsor, Named Insured, or Insured identified in the declarations page; and 3) "Other Insured(s)" means all other persons or entities afforded coverage under the policy.

#### 1. Cancellation

After coverage has been in effect for sixty (60) days, or in the case of a renewal policy, the policy shall not be cancelled except for one or more of the following reasons:

- A. Nonpayment of premium, including nonpayment of any additional premiums which were calculated in accordance with the current rating manual of the Insurer and justified by a physical change in the insured property or a change in its occupancy or use;
- B. Conviction of the Named Insured or Other Insured(s) of a crime having as one of its necessary elements an act increasing any hazard insured against;
- C. Discovery of fraud or material misrepresentation on the part of either A) the Named Insured or Other Insured(s) or a representative of same in obtaining the insurance or, B) the Named Insured or Other Insured(s) in pursuing a claim under the policy;
- D. Failure to comply with written loss control recommendations;
- E. Material change in the risk which increases the risk of loss after the insurance coverage has been issued or renewed;
- F. Determination by the Commissioner of Insurance that the continuation of the policy would jeopardize the Insurer's solvency or would place the Insurer in violation of the insurance laws of this state or any other state;
- G. Violation or breach by the Named Insured or Other Insured(s) of any policy terms or conditions; or
- H. Such other reasons that are approved by the Commissioner of Insurance.



2. Notice Of Cancellation

Notice of cancellation must be mailed or delivered by the Insurer or its authorized agents, to the named Insured, at the address shown in the policy. The notice shall state the grounds for cancellation and that upon written request of the named Insured, the Insurer shall furnish the facts on which the cancellation is based. Cancellation shall not be effective until ten 10 days after mailing, if cancellation is due to one of the above mentioned reasons or if the policy has been in effect less than sixty (60) days and is not a renewal.

The mailing of the notice shall be sufficient proof of notice.

3. Nonrenewal

The Insurer may nonrenew the policy by giving written notice of nonrenewal to the Named Insured and its authorized agent, (at the address shown in the policy) no less than sixty (60) days prior to the expiration date of the policy. If the Insurer fails to mail or deliver the notice of nonrenewal, the Insurer is required to extend the existing policy for an additional sixty (60) days. Notice of nonrenewal is not required if the Insurer has: 1) offered renewal, 2) if the Named Insured has replaced coverage, or 3) if the Named Insured has agreed in writing to replace coverage. If the Insurer provides such notice and extends the policy for ninety (90) days or less, an additional notice of renewal is not required.

4. Increase in Rates

Should the Insurer intend to effect a revision of rates by more than 25%, the Insurer shall mail or deliver to the Named Insured and its authorized agent at the address shown in the policy not less than sixty (60) days notice of its intention to increase the premium. The notice shall specify the percentage of increase.

5. Refund of Unearned Premiums

If the policy is cancelled, the Insurer will send the Named Insured any premium refund due. However, whenever an insurance policy which is financed with a premium finance company is cancelled, the insurer shall return, within 30 days after the effective date of the cancellation, whatever gross unearned premiums are due under the policy directly to the premium finance company for the account of the Named Insured.

The refund will be pro rata if:

- (a) The Insurer cancels; or
- (b) The policy is cancelled at the request of a premium financed company that has financed the policy under a premium finance agreement.

The refund may be less than pro rata if the Named Insured cancels the policy. The cancellation will be effective if the Insurer has not made or offered a refund

All other terms and conditions remain unchanged.



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AUTHORIZED SIGNATURE

## ENDORSEMENT

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 AM: 09/26/2009

forms a part of

Policy no.: DNU3375848

Issued to: Small Smiles Holding Company;

By: Affinity Insurance Services, Inc.

### ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

PROFESSIONAL LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
EMPLOYMENT – RELATED PRACTICES LIABILITY COVERAGE FORM  
MEDICAL WASTE DEFENSE EXPENSES REIMBURSEMENT COVERAGE PART  
ERISA FIDUCIARY LIABILITY COVERAGE PART

The **WHO IS AN INSURED** section is amended to include as an insured the person or entity shown in the Schedule below, but only with respect to their liability arising out of the conduct of your business

#### Schedule

Per Schedule on File with Agent

All other terms, conditions and exclusions of the policy remain unchanged.



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Authorized Representative

**Additional Insureds - Entity renewal 9-26-09**

6th St. of Denver Dental Clinic, PC
Albany Access Dentistry, PLLC
Children's Dental Clinic of Charleston, LLC
Children's Dental Clinic of Florence
Children's Dental Clinic of Gary, LLC
Children's Dental Clinic of Oklahoma City at Portland Plaza, PLLC
Children's Dental Clinic of Oklahoma City, PLLC
Children's Dental Clinic of Thornton, PC
Children's Dental Clinic of Tucson, LLC
Children's Dental Clinic of Tulsa, PLLC
Children's Medicaid Dental Clinic, PC
Small Smiles Dental Centers of Columbia, LLC
Small Smiles Dental Centers of Greenville, LLC
Dental Clinic of Indianapolis at Eagledale Plaza, LLC
DeRose Children's Dental Clinic, PC
Small Smiles Dental Center of Brockton, LLC
Small Smiles Dental Center of East Liberty, LLC
Small Smiles Dental Center of Hartford, PC
Small Smiles Dental Center of Holyoke, LLC
Small Smiles Dental Center of Manchester, PLLC
Small Smiles Dental Clinic of Boise, PLLC
Small Smiles Dentistry for Children, Albuquerque, PC
Small Smiles Dentistry for Children, P.C.
Small Smiles Dentistry for Children, Santa Fe, PC
Small Smiles Dentistry of Albany, LLC
Small Smiles Dentistry of Newburgh, LLC
Small Smiles Dentistry of Rochester, LLC
Small Smiles Dentistry of Syracuse, LLC
Small Smiles of Akron, LLC - Jodi Kuhn, DDS and Patricia Nicklas, DDS
Small Smiles of Atlanta, P.C.
Small Smiles of Augusta, P.C.
Small Smiles of Baltimore, PC
Small Smiles of Cincinnati, LLC - Jodi Kuhn, DDS and Patricia Nicklas, DDS
Small Smiles of Columbus, LLC - Jodi Kuhn, DDS and Patricia Nicklas, DDS
Small Smiles of Dayton, LLC - Jodi Kuhn, DDS and Patricia Nicklas, DDS
Small Smiles of Dothan, PC
Small Smiles of East Albuquerque, PC
Small Smiles of Fort Wayne, LLC
Small Smiles of Greeley, PC
Small Smiles of Langley Park, PC
Small Smiles of Lawrence, LLC
Small Smiles of Louisville, PSC
Small Smiles of Lynn, LLC
Small Smiles of Macon, P.C.
Small Smiles of Manassas, LLC
Small Smiles of Mattapan, LLC
Small Smiles of Montgomery, P.C.
Small Smiles of Myrtle Beach, LLC
Small Smiles of North Baltimore, PC
Small Smiles of Omaha, PC
Small Smiles of Oxon Hill, PC
Small Smiles of Reno, LLC
Small Smiles of Richmond, LLC
Small Smiles of Roanoke, LLC
Small Smiles of Roselawn, LLC - Jodi Kuhn, DDS and Patricia Nicklas, DDS
Small Smiles of Savannah, P.C.
Small Smiles of South Bend, LLC
Small Smiles of Spartanburg, LLC
Small Smiles of Springfield, LLC
Small Smiles of Toledo, LLC - Jodi Kuhn, DDS and Patricia Nicklas, DDS
Small Smiles of Washington DC, PC
Small Smiles of Wichita, LLC
Small Smiles of Worcester, LLC
Small Smiles of Youngstown, LLC- Jodi Kuhn, DDS and Patricia Nicklas, DDS
Smile High Dentistry for Children, PC
Texas Smiles Dental Center of Austin, PLLC
Texas Smiles Dental Center of Beaumont, PLLC
The Children's Dental Clinic of Indianapolis, LLC
The Indian Springs Dental Clinic, LLC
Topeka Dental Clinic, LLC
Wild Smiles Dental Center of Houston, PLLC

◀ UPDATE - (of W. Thomas Rd) not in legal name

◀ UPDATE - formerly Children's Medicaid Dental of Columbia, LLC

◀ UPDATE - formerly Children's Medicaid Dental of Greenville, LLC

## ENDORSEMENT

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 a.m. 09/26/2009 forms a part of  
Policy No. DNU3375848 issued to Small Smiles Holding Company;  
By Affinity Insurance Services, Inc.

### **BILLING ERRORS AND OMISSIONS COVERAGE ENDORSEMENT**

**NOTICE: THE LIMIT OF INSURANCE PROVIDED HEREIN IS IN ADDITION TO THE LIMITS OF INSURANCE FOR ALL OTHER COVERAGE UNDER THIS POLICY. HOWEVER, "BILLING DAMAGES" AND "CLAIM EXPENSES" REDUCE THE LIMITS OF INSURANCE PROVIDED HEREIN.**

This endorsement modifies insurance provided under the following:

DENTISTS PROFESSIONAL LIABILITY COVERAGE PART

**I. The following is added to Section I COVERAGE AGREEMENTS**

- A.** We will pay those sums the insured becomes legally obligated to pay as "billing damages" resulting from a "wrongful act" to which this insurance applies. We will have the right and duty to defend the insured against any "billing claim" seeking those "billing damages". However, we will have no duty to defend the insured against any "billing claim" seeking "billing damages" because of a "wrongful act" to which this insurance does not apply. We may, at our discretion, investigate any incident that may result from a "wrongful act". We may, with your written consent, settle any "billing claim" that may result. But:
  - 1. The amount we will pay for "billing damages" and "claim expenses" is limited as described in Section IV – Limit Of Insurance;
  - 2. The coverage and duty to defend provided by this policy will end when we have used up the applicable limit of insurance for "claim expenses" or the payment of judgments or settlements.
- B.** This insurance applies to "wrongful acts" only if:
  - 1. The "wrongful act" takes place in the "coverage territory";
  - 2. The "wrongful act" did not commence before the Retroactive Date, if any, shown in the Declarations or after the end of the "policy period"; and
  - 3. A "billing claim" against any insured for damages because of the "wrongful act" is first made during the policy period, in accordance with Paragraphs C. and D. below.
- C.** A "billing claim" will be deemed to have been made at the earlier of the following times:
  - 1. When notice of such "billing claim", after being received by any insured, is reported to us in writing; or

2. When a "billing claim" against an insured is made directly to us in writing.

A "billing claim" received by the insured during the policy period and reported to us within 30 days after the end of the policy period will be considered to have been reported within the policy period. However, this 30 day grace period does not apply to "billing claims" that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such "billing claims".

- D. If during the policy period you become aware of a "wrongful act" that may reasonably be expected to give rise to a "billing claim" against any insured, you must provide notice to us. If such notice is provided, then any "billing claim" subsequently made against any insured arising out of that "wrongful act" shall be deemed under this policy to be a claim made during the policy period in which the "wrongful act" was first reported to us.

**II. The following is added to Section II. EXCLUSIONS:**

This coverage provided by this endorsement does not apply to any "billing claim":

- A. Relating to a "dental incident".
- B. Arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.
- C. Based on or relating to the conduct of any corporation, partnership, partner, joint venture or any other business entity of which any insured is involved and which is not designated as an insured on this policy;
- D. Relating to any profit or advantage gained by an insured to which he or she was not in fact entitled.

**III. For the purposes of the coverage provided by this endorsement, Section IV – LIMITS OF INSURANCE is replaced with the following:**

**IV. LIMITS OF INSURANCE**

- A. The Limit of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - 1. Insureds;
  - 2. "Billing claims" made; or
  - 3. Persons, organizations or government agencies making "billing claims".

- B. The Limit of Insurance is the most we will pay for the sum of:

- 1. All "billing damages"; and
- 2. All "claim expenses"

because of all "wrongful acts" to which this insurance applies.

The Limit of Insurance of this Endorsement applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limit of Insurance.

**IV. For the purposes of the coverage provided by this endorsement, the following definitions are added to Section VI. DEFINITIONS:**

- A. "Billing Claim" means:

- 1. a demand for money or services, brought by or on behalf of any "government entity" or commercial payor against the insured seeking "billing damages" for a "wrongful act";

2. commencing an audit or investigation of a "wrongful act"; or
3. seeking injunctive relief on account of a "wrongful act".

"Billing Claim" does not include:

1. any customary or routine audit/reconciliation conducted by or at the behest of a "government entity" or commercial payor; or
2. any criminal proceeding against an insured.

**B. "Claim expenses" means:**

1. reasonable and necessary fees charged by an attorney, chosen by us, or auditor chosen by the insured with our written consent; or
2. other reasonable and necessary fees, costs or expenses incurred in the investigation, adjustment, defense and appeal of a "billing claim" to which this endorsement applies if incurred by the insured with our written consent.

"Claim expenses" does not include:

1. remuneration, salaries, wages, overhead, fees or benefits of any insured;
2. any fees, costs, or expenses incurred with respect to any criminal proceedings or actions against any insured; or
3. the costs associated with the adoption and implementation of any corporate integrity agreement, compliance program or similar program regarding the insured's business operations negotiated as part of a settlement with a "government entity" or commercial payor or by order of a "government entity".

**C. "Billing damages" means any monetary amount not exceeding the limit of liability applicable to this endorsement which the insured is legally obligated to pay as a result of a "billing claim", including sums paid as awards, judgments, settlements and civil fines and penalties imposed by a "government entity".**

"Billing damages" does not include the return or restitution of fees, profits, charges or benefit payments to any commercial payor or governmental health benefit payor or program.

"Government entity" means:

1. any department, agency, task force or other organization created by any federal, state or local law, executive order, ordinance or rule; or
2. any department, agency, task force or other organization operated, funded or staffed, in whole or in part, by the federal or any state, county or local government.

**D. "Wrongful act" means presenting, causing or allowing to be presented or being liable for the presentation of any actual or alleged erroneous "billing claim" by the insured to a commercial payor or government health benefit payor or program from which the insured seeks payment or reimbursement for "professional services" provided or prescribed by the insured.**

All other terms, conditions and exclusions of the policy remain the same.



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Authorized Representative

## ENDORSEMENT

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 AM: 09/26/2009

forms a part of

Policy no.: DNU3375848

Issued to: Small Smiles Holding Company;

By: Affinity Insurance Services, Inc.

### GENERAL ANESTHESIA ENDORSEMENT

This endorsement modifies insurance provided under the following:

#### PROFESSIONAL LIABILITY COVERAGE PART

Paragraph I. of Section II. **EXCLUSIONS** is deleted in its entirety and replaced with the following:

- I. To a "dental incident" which involves the use of intravenous or intramuscular injections or "general anesthesia".

This exclusion does not apply:

1. When the intravenous or intramuscular injections or "general anesthesia" are administered by a licensed provider of anesthetic services, or
2. To the use of intravenous or intramuscular injections to render "conscious sedation" in emergency situations where a life threatening or potential permanent injury exists.

All other terms, conditions and exclusions of the policy remain unchanged.



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Authorized Representative