

# STORY DENTAL HEALTH CENTER AGREEMENT

May 15, 2005 - June 17, 2006

## UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 428, AFL-CIO, CLC

THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 2005 by and between **Story Dental**, First Party, referred to hereinafter as the "Employer", and **UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 428**, chartered by the United Food & Commercial Workers International Union, AFL-CIO, CLC, referred to hereinafter as the "Union" and is valid for one year from the date of execution.

### WITNESSETH:

In consideration of the premises and of the respective promises, agreements and covenants of the above-mentioned parties hereto, they do hereby mutually agree as follows:

### SECTION 1. RECOGNITION AND CONTRACT COVERAGE

- (a) **BARGAINING UNIT:** The Employer hereby recognizes the Union as the sole collective bargaining agency for an appropriate unit consisting of all full-time and regular part-time employees working in the Employer's facilities within the geographical jurisdiction of the Union in Santa Clara County, Menlo Park, East and North Palo Alto, California.
- (b) **UNION EMBLEM:** The Union agrees to issue Union Shop Cards or window decals to the Employer under the rules governing Union Shop Cards set forth by the United Food & Commercial Workers International Union. Such Union Shop Cards and decals are, and shall remain, the property of said United Food & Commercial Workers International Union; and the Employer agrees to surrender said Union Shop Cards or decals to an authorized representative of the Union on demand in the event of failure by the Employer to observe the terms of this Agreement or the conditions under which said Union cards or decals are issued.

### SECTION 2. EMPLOYMENT AND UNION MEMBERSHIP

- (a) **UNION SHOP:** On and after thirty (30) days of employment, or the date of execution of this Agreement, whichever is later, each employee shall become and remain a member of the Union as a condition of employment; provided, however that the Employer shall not be obligated to discharge any employee in violation of the National Labor Relations Act, as amended. Upon written notification from the Union that an employee has failed to make timely tender to the Union of initiation fees and/or periodic dues the Employer agrees to terminate said employee on the eighth (8th) day from such notice unless the Union notifies the Employer in writing that the

employee has complied with the provisions hereof. The Union acknowledges that all employees of Story Dental are hourly employees and hence their weekly number of hours worked could fluctuate depending upon the needs of the office and business climate.

(b) **NEW EMPLOYEES:** The Employer shall pay the said person so employed during the period said person is not a member of the Union at the regular wage provided for in this Agreement, and shall in all other respects require said person to work under and live up to all terms and conditions set forth in this Agreement, covering his/her employment.

(c) **REPORTING:** The Employer shall notify the Union within fifteen (15) days, in writing, on forms supplied by the Union, as to the name, classification, rate of pay, and date of hire of all employees hired.

(d) **NON-DISCRIMINATION:** The Employer shall not discriminate against any person in regard to hire, tenure of employment, or job status because of race, creed, religion, color, or national origin, nor shall age or sex, under any circumstances, be a basis for rejection or termination of an otherwise qualified employee or applicant for employment. The parties further agree to comply with all Family Leave Law and ADA state and federal regulations.

(e) **DUES CHECK-OFF:** The Employer agrees to deduct from the first salary check of each month the employee's monthly union dues and initiation fees for employees who have voluntarily and individually certified in writing that such deductions be made. The Employer will submit all such funds deducted to Local 428 on a monthly basis and will provide a list of members whose dues and initiation fees have been so deducted.

### **SECTION 3. DISCHARGES**

(a) The Employer shall and hereby agrees not to discharge or discriminate against any employee for upholding Union principles which do not require a violation of this contract, serving on a committee of the Union, or any organization affiliated therewith, and failing or refusing to purchase stocks, bonds, securities, and/or interest in/or of any partnership, corporation and/or company.

(b) **PROBATION:** Employees who have completed the required probationary period of ninety (90) days shall receive two (2) weeks notice of termination or two (2) weeks pay at the employee's regular rate in lieu thereof, except in cases of discharge for just cause. The Union acknowledges that a reduction in number of hours of work due to office needs / business climate does not constitute termination and does not require any notice of termination or any payment thereof.

(c) **WORK PERFORMANCE:** The Employer shall have the right to discharge any employee for just cause. Any grievance relating to discharges shall be filed and processed in accordance with Section 18 of this contract.

1. Employees who are discharged for incompetency or failure to perform work as required (including excessive absenteeism or excessive tardiness) shall first have had two

(2) prior warnings in writing within twelve (12) months preceding the discharge for such incompetency or of related or similar failure to perform work as required, with a copy sent to the Union, and be given an opportunity to improve his/her work. Employees and Union representatives will not be denied an opportunity to discuss warning notices with the Employer. The Union acknowledges that a reduction in number of hours of work due to office needs / business climate does not constitute discharge of an employee.

Employees shall be required to sign or initial such written warnings solely as an acknowledgement of the receipt thereof and such signature or initial shall not be construed as an admission of guilt or the validity of the contents thereof.

2. Upon severance of employment of an employee, the Employer shall within seven (7) calendar days thereafter notify the Union of such resignation, lay-off or discharge. If discharge is for cause, the Employer agrees to submit the reasons therefor to the Union in writing upon request.
3. The company shutdown does not constitute either termination or discharge of an employment. During that time, no employees earn any wages.

#### **SECTION 4. SENIORITY**

(a) **DEFINITION AND APPLICATION:** Seniority as hereinafter defined shall apply to all employees after ninety (90) days from date of their employment. Seniority as used herein shall mean length of service. It is agreed that ability being reasonably equal (for skill set within each business functions as described in section 9 of this agreement), length of service shall determine the order in which employees' hours may be reduced or increased, or in which employees are laid off and rehired. The employee with the least length of service and ability shall be the first to be rehired in reverse order to that in which his/her hours were reduced or was laid off. No new help shall be hired until all laid off employees have been given an opportunity to return to work. Seniority shall also apply in respect to the employee's preference concerning the scheduling of vacations.

(b) **LOSS OF SENIORITY:** No employee shall break seniority unless he/she:

1. Is discharged.
2. Quits
3. Is laid off for a minimum of six (6) consecutive months.
4. Fails to return to work upon completion of a leave of absence.
4. Fails to report for work when recalled within three (3) days after having been notified by the Employer by telegram or registered mail to so report.

## **SECTION 5. GENERAL PROVISIONS**

- (a) **PAY PERIOD AND WAGE STATEMENT:** All employees shall be paid on a weekly or bi-weekly basis. The Employer shall designate a payday not to exceed five (5) days following the completion of the week's work and employees must be paid on that day. The Employer agrees to furnish each employee with a weekly or bi-weekly wage statement showing the name of the employee, period covered, total amount of wages paid and all deductions made. An employee scheduled off on a payday shall be paid on his/her last scheduled working day before the payday, if checks are available.
- (b) No salary rate herein provided for shall be considered or interpreted as meaning other than a minimum wage. No salary rate being paid to any employee on or prior to the date of the signing of this Agreement which is higher than the minimum herein established for the classification in which the employee works shall be reduced by reason of the signing and execution of this Agreement.
- (c) **TRAVEL ALLOWANCE:** Any employee using his/her automobile on the Employer's business shall be reimbursed as determined by Company policy.
- (d) **JURY DUTY OR COURT APPEARANCES:** Employees required to appear in court or the Police Department on behalf of their Employer shall receive their regular straight-time pay during such appearances. The employer will give leave of absence for Jury Duty (without pay to hourly employees and with pay, less jury pay or witness fees received, for regular full time salaried employees) as per the company policy. The Jury Duty policy will be looked at again next year which will be ratified in the following year's contract.
- (e) **REST PERIODS:** All employees shall receive a rest period of ten (10) minutes during every four (4) hours of work or major fraction thereof.
- (g) **JOB INJURY:** When an employee is injured on the job and reports for medical care and it is certified that he/she is unable to continue work, he/she shall be paid the basic straight-time rate of pay for the hours not worked on the day of injury.
- (h) **SAFETY RULES:** The Employer shall promote safe working conditions within each facility and shall provide and maintain first aid supplies and appropriate safety gear and equipment to be used in conjunction with proper training.
- (i) **POLYGRAPHS:** No Employer shall request or require any applicant for employment or prospective employment or any employee to submit to or take a polygraph, lie detector or similar test or examination as a condition of employment or continued employment.

## **SECTION 6. HOURS AND WORK SCHEDULES**

- (a) **BASIC WORK WEEK:** Forty (40) hours, consisting of five (5) days of eight (8) hours each in a week on Monday through Friday, shall constitute a basic week's work. Part-time

employees may be hired based on the needs of the company but part-time work shall not be utilized to undermine full-time positions.

(b) **STRAIGHT-TIME WORK DAY:** Eight (8) hours worked within nine (9) consecutive hours, with one (1) uninterrupted hour off for a meal period, shall constitute a straight-time day's work. The meal period, shall be given not earlier than three (3) hours nor later than five (5) hours from the starting time of the employee's shift.

Each employee shall be paid at the overtime rate for all the difference between the time he/she was sent to lunch and the commencement of his/her third hour of employment, and each employee shall be paid at the overtime rate for all the work performed in excess of five (5) consecutive hours from the commencement of his/her employment for the day without a meal period unless agreed to by the employee.

(c) **HOLIDAY WORK WEEK:** Thirty-two (32) hours, consisting of four (4) eight (8) hour days, exclusive of the holiday, shall constitute a week's work in any week in which the holiday falls.

(d) **REPORTING PAY:** Any employee who reports to work for a previously scheduled shift and is sent home shall receive one hour pay.

#### **SECTION 7. OVERTIME AND PREMIUM PAY**

(a) The overtime rate of pay of one-and-one-half (1-1/2) times the employee's regular basic hourly rate of pay shall be paid for the following work:

1. Work in excess of eight (8) hours per day or up to 10 hours per day for 4 days a working week.
2. Work in excess of forty (40) hours per week, unless previously agreed upon mutually in writing by both the parties.
3. Work on the sixth (6th) day in any week, unless previously agreed upon mutually in writing by both the parties.
4. Work over four (4) days, excluding the holiday, in a week in which there is a paid holiday named in Section 10, unless previously agreed upon mutually in writing by both the parties.
5. Work ten (10) hours a day for four (4) days a week.

#### **SECTION 8. SCHEDULE OF WAGES**

Appendix "A", which sets forth the job classifications, minimum rates of pay and effective dates, is incorporated herein as set forth in full.

## **SECTION 9. CLASSIFICATION OF EMPLOYEES**

Classification for employees shall be as follows:

|                             |                       |
|-----------------------------|-----------------------|
| Receptionist                | Treatment coordinator |
| Dental Assistant            | F. A. coordinator     |
| Registered Dental Assistant | Billing administrator |

## **SECTION 10. HOLIDAYS**

(a) For all non-probationary employees the following days shall be observed as paid holidays. Employees start to earn vacation after one year of employment.

|                |                        |
|----------------|------------------------|
| New Year's Day | Thanksgiving Day       |
| Memorial Day   | Day after Thanksgiving |
| 4th of July    | Christmas Day          |
| Labor Day      |                        |

If any of these holidays fall on a Sunday, such holidays shall be observed on the following Monday.

Christmas Day and New Year's Day shall be celebrated on December 25 and January 1, respectively.

A floating holiday shall be inducted in the holidays next year (2006 / 2007) based upon the profitability of the business. This will be ratified in the next year's contract.

(b) In the event that a holiday falls on an employee's regularly scheduled day off, the employee shall be granted an additional day off with full pay, provided he/she has otherwise qualified for holiday pay.

(c) **HOLIDAY PREMIUM RATE:** Employees scheduled to work on a holiday shall be compensated at the rate of double their regular rate of pay.

(d) **PART-TIME EMPLOYEES:** Holiday pay for employees who work less than forty (40) hours shall be based on twenty percent (20%) of the employee's average hours worked per week in the six (6) weeks immediately preceding the holiday or the number of weeks worked if less than six (6), except that in computing pay for the New Year's holiday, the same period of time used in computing pay for the Christmas holiday shall be used. Employees working less than 32 hours do not earn holiday pay.

(e) **GOOD FRIDAY:** No employee will be refused time off between the hours of 12:00 noon and 3:00 p.m. on Good Friday for the purpose of attending religious services.

## **SECTION 11. VACATIONS**

(a) All employees who have been in the service of the Employer for one (1) year shall start to earn one (1) week's vacation with pay (after first year of service).

Such employees who have been in the service of the Employer for five (5) years or more shall receive two (2) weeks' vacation annually with pay.

**CONTINUITY:** All loss from employment because of reasonable absence from work through sickness or other emergencies, or temporary lay-off, not exceeding thirty (30) calendar days, shall be considered as time worked for the purpose of determining the length of employment.

Absence from work due to illness, accident, leave of absence or sick leave shall not be considered part of a vacation.

(b) Vacation pay shall be based on the employee's straight-time and regular overtime weekly earnings.

(c) **COMPUTING VACATION PAY:** Employees shall receive vacation pay based on the following formula:

Two percent (2%) of the employee's earnings for the previous year equals one (1) week's vacation pay;

four percent (4%) of the employee's earnings for the previous year equals two (2) weeks' vacation pay;

six percent (6%) of the employee's earnings for the previous year equals three (3) weeks' vacation pay;

**Or straight vacation Pay : re hourly rate X 8 hours /day**

In computing vacation termination pay after one (1) year of service, it is understood that it will be prorated at four percent (4%) or more.

**TERMINATION VACATION PAY:** Any employee who resigns or who is released, regardless of reason, shall be paid any vacation pay earned but not taken at the time of his/her removal from the payroll. After the first six (6) months of employment, after probation period, such employee is entitled to a prorated vacation allowance for the period since his/her last anniversary date or his/her date of hire, whichever is more recent, computed in accordance with this Section.

(d) It is agreed that if a holiday or holidays named under Section 10 of this Agreement falls within the vacation week of an employee, one (1) additional day shall be added to the vacation period with full pay for each holiday therein.

(e) **VACATION SENIORITY:** Insofar as possible and practicable, preference of vacation time shall be given in accordance with seniority.

## **SECTION 12. LEAVES OF ABSENCE**

(a) **UNION BUSINESS:** Employees shall be allowed time off without pay for the purpose of attending Agreement negotiations, Adjustment or Arbitration Board hearings, or for other bona fide Union business. In all such instances, the Employer shall be notified not less than one (1) week in advance of such absence, and the number of employees requesting such absences shall be so limited by the Union that it will not interfere unreasonably with the operation of the Employer's business.

(b) **OTHER LEAVES:** An employee shall be granted a leave of absence for any reasonable cause without loss of seniority. Approval of such leave shall not be arbitrarily withheld by the Employer.

Leaves so granted need not exceed:

1. After six (6) months of employment thirty (30) days for compelling personal reasons, with permission from the Employer.
2. After six (6) months of employment, six (6) months for illness or injury.
3. After sixty (60) days of employment, fifteen (15) months for industrial injury.
4. Extensions of the above leaves shall not be withheld arbitrarily by the Employer.

(c) **PREGNANCY:** The Employer agrees to grant leaves of absence for pregnancy in accordance with Federal and State statutes.

(e) **FUNERAL AND BEREAVEMENT LEAVE:** If a death occurs in the immediate family of an employee, the employee shall be entitled to two (2) days funeral leave if the funeral is outside of California and one (1) day if the funeral is in California. Immediate family is defined as employee's spouse, child, mother, father, sister, brother, mother-in-law, father-in-law, grandparents, grandchildren, brother-in-law, sister-in-law and domestic partner. When requested, the employee will provide satisfactory documentation (like program of service) to claim benefits under this Section.

(g) **MILITARY SERVICE:** The Employer agrees to comply with current federal laws relating to the discharged servicemen and women, including, but not limited to, their re-employment rights.

(h) **FAMILY LEAVE ACT:** The Employer agrees to comply with all provisions of the Family Medical Leave Act.

- (i) **EDUCATIONAL LEAVE:** After one year of continuous service an employee may request leave with pay for the purpose of attending career-oriented educational programs. The granting of such paid leave shall be at the Employer's discretion. Whenever an employee is requested by the Employer to attend an educational program, the employee's salary and reasonable expenses shall be paid by the Employer.

**SECTION 13. GROUP INSURANCE - HEALTH & WELFARE, DENTAL AND SICK LEAVE**

(a) **MEDICAL BENEFITS:** The Employer agrees to maintain its current health, vision and dental benefit plans for the duration of this Agreement unless improvements in the plans are negotiated with the Union. Upon ratification of next year's contract (2006/2007), Story Dental will reimburse 75% of the insurance premium of Kaiser. This is also dependent upon the profitability of the practice and would require Story Dental's CFO's signature for ratification to become affective.

(b) **SICK LEAVE BENEFITS:** Employees shall accrue .25 days of Sick Leave for each month of full-time employment (pro-rated for part-time employees). Upon completion of the probationary period, sick leave shall be payable on the first day of absence. A valid note from the doctor's office is required for the sick leave payment clearly indicating an employee's inability to perform work. Story Dental will work with the Union office to track and notice any abuses of this policy on a constant basis. If an employee does not take any sick leave during the year, he/she will get a cash bonus of one day (8 hours) of their salary (prorated for part time employees). In January and July of each year the Employer will provide each employee with an accounting of his/her sick leave and vacation banks. A copy of the report shall be forwarded to the Union.

**SECTION 14. RETIREMENT**

The Employer agrees to match employee contributions to a 401 (k) retirement plan up to a maximum of \$250 per year for full-time employees and \$100 a year for part-time employees, whenever 401 (k) plan is instituted. This plan will be instituted only if the business can afford the cost associated with it and if 2/3rds of the employees agree to participate in it.

**SECTION 15. VISITS TO FACILITIES**

(a) It is agreed by both parties hereto that the business representatives or any other person designated by the Union for such purpose shall have the right and shall be allowed by the Employer to visit the employer's facilities for the purpose of observing working conditions, making inquiries from employees concerning working conditions, complaints of members of the Union, and/or any violations of this Agreement. The Union agrees there will be no unnecessary visits or interference with the proper performance of the work of employees covered by this Agreement or with the privacy of patients. Prior to such visit, the Union will arrange a schedule with the Employer. Such visits shall normally not take place more than once per month.

(b) The Employer shall provide a bulletin board conveniently located for the posting of notices of official business of the Union.

## **SECTION 16. UNION PRINCIPLES**

Wherever possible, the Employer agrees to utilize union services for printing, janitorial, repair, and other needs of the business. The Union agrees to assist the Employer in its efforts to make other labor organizations aware of the company's commitment to union principles and to encourage members of those labor organizations to utilize Bay Dental as a union-represented provider of dental care.

## **SECTION 17. STRIKE OR LOCKOUT**

(a) The Union agrees not to engage in any strikes or stoppage of work during the term of this Agreement, and the Employer agrees not to engage in any lockout during the term of this Agreement.

## **SECTION 18. GRIEVANCES, ADJUSTMENT AND ARBITRATION**

(a) Employees shall attempt to resolve disputes with the Office Manager and may, at their option, have a Union Representative present. In the event a dispute is not able to be resolved internally, or if a dispute arises concerning the application or interpretation of the provisions of this Agreement between the Employer and the Union, the nature of the dispute shall be submitted to the Union or the Company respectively, in writing, within ten (10) days of knowledge of the occurrence. Grievances relating to discharges shall be filed, in writing, within ten (10) days after receipt by the Union of notice from the Company, in writing, of said discharge. Thereafter the Union and the Employer shall each designate two (2) representatives to meet as a Board of Adjustment to settle the controversy within ten (10) days. After the Board of Adjustment meeting, either party has twenty (20) days in which to give written notice to the other party of their desire to arbitrate said issue. The time limits may be extended, in writing, by mutual agreement of the parties.

(b) **ARBITRATION:** Upon receipt of said demand for arbitration, the parties shall, within seven (7) days after receipt of said demand, confer and select an arbitrator agreed upon by the parties as being acceptable to resolve disputes under this Agreement. As for the selection of the arbitrator for a specific dispute, the parties shall select said individual by alternately striking names from a list until the last name remains.

The decision of the Board of Adjustment or of the arbitrator shall be final and binding upon the employee, the Union and the Employer involved, and they expressly agree to be bound by the decision. The arbitrator shall not have the power to alter, change or modify this Agreement in any respect.

(c) The expenses of the arbitration shall be borne equally by both the Employer and the Union.

**SECTION 19. SEPARABILITY CLAUSE**

The provisions of this Agreement are deemed to be separable to the extent that if and when a court of last resort adjudges any provisions of this Agreement in its application between the Union and the undersigned Employer to be in conflict with any law, such decision shall not affect the validity of the remaining provisions of this Agreement, but such remaining provisions shall continue in full force and effect; provided, further, that in the event any provision or provisions are so declared to be in conflict with a law, both parties shall meet immediately for the purpose of renegotiation and agreement on provision or provisions so invalidated.

**SECTION 20. ENTIRE AGREEMENT**

Unless otherwise provided for in writing between the parties, this Agreement constitutes the sole and entire existing agreement between the parties and supersedes all prior agreements, commitments and practices, whether oral or written, between the Employer and the Union, or the Employer and any of the covered employees, except as incorporated herein in writing, and expresses all contractual obligations of any restrictions imposed on the Employer and the Union. Section headings are descriptive only and shall not be used to add to, detract from, or interpret in any manner the meaning of any provision of this Agreement.

**SECTION 21. TERM OF AGREEMENT**

(a) The term of this Agreement shall be from May 15, 2005, to and including the 17<sup>th</sup> day of June 2006, and shall be considered as renewed from year to year thereafter unless either party hereto gives written notice to the other of its desire to have the same modified or terminated. Such notice shall be given at least sixty (60) days prior to the expiration date of this Agreement, during which period negotiations for a new Agreement shall be conducted.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands the day and year first hereinabove written.

UNITED FOOD & COMMERCIAL WORKERS  
UNION, LOCAL 428, AFL-CIO  
240 So. Market Street  
San Jose, CA 95113

STORY DENTAL  
2454 Story Road  
San Jose, CA 95122

BY: \_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE \_\_\_\_\_

|                        |                                     | <u>5/15/05</u> | <u>5/15/06</u> | <u>5/16/07</u> | <u>5/15/08</u> |
|------------------------|-------------------------------------|----------------|----------------|----------------|----------------|
| <u>Office Employee</u> | 1 <sup>st</sup> 12 months - \$10.00 |                | \$10.00        | \$10.00        | \$10.50        |
|                        | 2 <sup>nd</sup> 12 months - \$10.50 |                | \$10.50        | \$10.50        | \$11.00        |
|                        | 3 <sup>rd</sup> 12 months - \$11.00 |                | \$11.00        | \$11.00        | \$11.50        |
|                        | Thereafter - \$12.00                |                | \$12.50        | \$13.00        | \$13.50        |
| Dental Assistant       | 1 <sup>st</sup> 12 months - \$10.50 |                | \$10.50        | \$10.50        | \$11.00        |
|                        | 2 <sup>nd</sup> 12 months - \$11.50 |                | \$11.50        | \$11.50        | \$12.00        |
|                        | 3 <sup>rd</sup> 12 months - \$12.50 |                | \$12.50        | \$12.50        | \$13.00        |
|                        | Thereafter - \$14.00                |                | \$14.50        | \$15.00        | \$15.50        |
| RDA                    | 1 <sup>st</sup> 12 months - \$12.00 |                | \$12.00        | \$12.00        | \$13.00        |
|                        | 2 <sup>nd</sup> 12 months - \$13.00 |                | \$13.00        | \$13.00        | \$14.00        |
|                        | 3 <sup>rd</sup> 12 months - \$14.00 |                | \$14.00        | \$14.00        | \$15.00        |
|                        | Thereafter - \$15.00                |                | \$15.50        | \$16.00        | \$17.00        |

**Treatment coordinator**

**F. A. coordinator**

**Billing administrator**

**Effective 5-14-05 current employees shall be slotted into the appropriate bracket above and receive a \$0.25 per hour wage increase.**

**The Employer may conduct merit reviews of employees and grant additional wage increases at its discretion.**