

MEMBER TERMS AND CONDITIONS iSMILE DIRECT

1. Plan Summary, Disclosures.

- a. iSmile Direct ("Plan") is a discount dental membership plan administered by Membersy LLC ("Company"). Membership in Plan entitles Members to discounts on certain identified dental services rendered by participating Providers in accordance with the Plan's Fee Schedule. Discounts may vary depending on the type of Provider and the service received.
- b. **Plan is NOT INSURANCE. Members are obligated to pay Providers for all services rendered in accordance with the Fee Schedule. Company does not pay Providers for services rendered to Members.** Neither Company nor Plan are affiliated with or endorsed by any state insurance department.
- c. Members may log in to the Member portal on Plan website at <https://ismile-direct.com> or contact Company's Member Support department to obtain additional information, including an up-to-date list of participating Providers and a complete description of reduced rates under the Plan Fee Schedule.

Mailing address: Membersy
 P.O. Box 163990
 Austin, TX 78716-3990
 Attention: Member Support
 (877) 545-4188 (7am-6pm CST, Monday-Friday)
 Email: member@membersy.com

- d. If Member remains dissatisfied after completing the complaint procedure detailed herein, the Member may contact his/her state insurance department.
- e. **You, the Member, may cancel your membership at any time by contacting Member Support to request cancellation as fully set forth in Section 7 below. You will receive a full refund of Membership Fees paid to Company if (i) the cancellation request is received within the first thirty (30) days of the current annual contract term (the "Cancellation Window"), and (ii) no discounted dental services have been provided to any Member(s) under the Plan during the current term.**
- f. *Florida residents may be entitled to a full refund of Membership Fees paid to Company if the cancellation request is received within the Cancellation Window, regardless of whether any discounted dental services have been provided to any Member(s) under the Plan during the current term. Residents of California, Florida, North Dakota, and Oklahoma who cancel outside of the Cancellation Window may be entitled to a pro-rata refund. Please contact Member Support for details.*
- g. *Massachusetts residents:* Plan does not meet the minimum creditable coverage requirements under M.G.L.c. 111m and 956 CMR 5.00.

2. Definitions.

- a. Agreement: The complete Plan membership contract between Company and the Member, consisting of (i) Member Application, (ii) Member Terms, and (iii) Fee Schedule, and (iv) Keep On Smilin' Assurance Maintenance Agreement.
- b. Effective Date: The date that the Member submits the completed Member Application and full payment of applicable Membership Fees to Company for the initial term of service. Members shall be entitled to receive Plan-based pricing from Providers as of the Effective Date.
- c. Fee Schedule: One or more schedule(s) of applicable fees to be charged to Members for dental services rendered under the Plan, as published on the Plan website. Fee Schedule(s) may be updated from time to time by placing an updated version of the Fee Schedule on the Plan website.
- d. Keep On Smilin' Assurance: Warranty on dental services rendered to active Members, as set forth in the Keep On Smilin' Assurance Terms and Conditions published on Plan website and included as an addendum to these Member Terms and Conditions. Keep On Smilin' Assurance is not an insurance policy.
- e. Member: Any Primary Member or Additional Member enrolled in Plan. Plan shall only cover those individuals who are enrolled in the Plan at the time of service.
- f. Member Terms: These Member Terms and Conditions.
- g. Membership Fees: Fees payable to Company upon enrollment in Plan and upon each successive renewal of Plan term. Membership fees may vary from term to term; you will be provided with notice of any changes to membership fees. Membership Fees are paid in exchange for access to discounts offered through Plan and are not payment for dental services provided by Providers.
- h. Primary Member: The individual who completes the initial enrollment in Plan and is designated as the "primary member".
- i. Additional Member: A Primary Member's spouse, domestic partner, or dependent who has been enrolled in Plan under the Primary Member's membership.
- j. Provider: A licensed dental services provider participating in Plan.

3. Plan Description, Limitations, Exclusions & Exceptions.

- a. Plan is a discount dental membership plan administered by Company and offered in participating dental practices and online through Plan website. Company is not a licensed insurer, health maintenance organization, preferred provider organization, or underwriter of health care services. Company is not licensed to provide and does not provide dental services or other medical advice or otherwise engage in the practice of dentistry or medicine. Members are eligible to receive discounts on dental services in accordance with the applicable Fee Schedule from any Provider participating in Plan. Members are obligated to pay Providers for dental services at the time of service in accordance with the Provider's payment policies. No portion of any Provider's fees will be reimbursed or otherwise paid by Company. Because some savings are based on a percentage of the individual Provider's usual and customary rates, actual savings may vary. Plan may not be used in conjunction with any other membership plan, discount health care program or third-party payor program, including government and private third-party payor programs (e.g., Medicaid, private insurance). All savings amounts listed on Fee Schedule are current savings offered by Providers and are subject to change. From time to time, Providers may, at their discretion, offer services or products to the general public at prices lower than the Fee Schedule prices available through Plan membership. In addition, the Fee Schedule may be updated from time to time, which may affect the discount being offered to you for applicable services.
- b. Providers are solely responsible for the services and products received by Members, and Company disclaims any liability with respect to the provision of such services and products. Company cannot guarantee the continued participation of any Provider. Any Provider's participation in Plan may be terminated at any time without prior notice to Members.
- c. Members in good standing shall be entitled to scheduled maintenance from participating Providers on certain dental treatments as necessary to maintain the treatments in good condition and working order, as fully set forth in the Keep On Smilin' Assurance Maintenance Agreement attached hereto.

4. Enrollment.

- a. Members are eligible to receive discounts on dental services in accordance with the applicable Fee Schedule from participating Provider(s). Members may obtain an updated list of Providers at any time by visiting Plan website or by contacting Member Support. If any Provider's participation in Plan is terminated, affected Members shall be given an opportunity to select a new Provider from the list of participating Providers; if there are no other participating Providers offering services in Member's immediate area, Member may request a membership cancellation and pro-rata refund of Membership Fees in accordance with Company's cancellation policy as set forth in Section 7 below.
- b. Individual Members are eligible to purchase additional memberships for up to nine (9) Additional Members at any given time under their own Plan membership by contacting Member Support or by using the self-service Member portal on Plan website. Company shall notify the Member at the time of purchase regarding any changes to Plan pricing and/or term renewal date that may result from the addition of new Additional Member(s) to an existing Plan membership.

5. Payments.

- a. Company uses a third-party payment processor (the "Payment Processor") to process electronic payments of Membership Fees. Company is not responsible for any error by, or other acts or omissions of, the Payment Processor. By enrolling in a Plan or adding a new member to a Plan, you agree to pay Company, through the Payment Processor, the applicable Membership Fees and you authorize Company, through the Payment Processor, to charge your chosen payment provider (your "Payment Method"). You agree to make payment using that selected Payment Method. We reserve the right to correct any errors or mistakes that the Payment Processor makes even if it has already requested or received payment.
- b. YOU MUST PROVIDE CURRENT, COMPLETE AND ACCURATE INFORMATION FOR YOUR ACCOUNT. YOU MUST PROMPTLY UPDATE ALL INFORMATION TO KEEP YOUR ACCOUNT CURRENT, COMPLETE AND ACCURATE (SUCH AS A CHANGE IN BILLING ADDRESS, CREDIT CARD NUMBER, OR CREDIT CARD EXPIRATION DATE), AND YOU MUST PROMPTLY NOTIFY COMPANY OR THE PAYMENT PROCESSOR IF YOUR PAYMENT METHOD IS CANCELED (E.G., FOR LOSS OR THEFT) OR IF YOU BECOME AWARE OF A POTENTIAL BREACH OF SECURITY, SUCH AS THE UNAUTHORIZED DISCLOSURE OR USE OF YOUR USER NAME OR PASSWORD. IF YOU FAIL TO PROVIDE ANY OF THE FOREGOING INFORMATION, YOU AGREE THAT COMPANY MAY CONTINUE CHARGING YOU FOR MEMBERSHIP FEES UNTIL YOU HAVE CANCELLED YOUR PARTICIPATION IN A PLAN PURSUANT TO SECTION 7 OF THESE MEMBER TERMS.
- c. You may change your Payment Method at any time by contacting Member Support or by using the self-service member portal on Plan website.

6. Contract Term/Renewal.

- a. All Plan memberships are annual contracts; your initial contract term will begin on the Effective Date and will continue for twelve (12) months thereafter. **Your Plan membership will automatically renew for an additional one-year term at the end of each annual contract term, and payment of Membership Fees for the renewal term shall automatically be charged to or drafted from your credit card or bank account using payment information on file with Company.** Your Plan membership shall remain in effect until it is canceled in accordance with Section 7 below.
- b. By enrolling in Plan and providing your payment information to Company, you, the Member, are authorizing Company to bill your credit card or checking account for Membership Fees for the initial term and any renewal term(s) at the plan level rate that you have selected. Your non-cancellation of Plan membership reaffirms that Company is authorized to charge your Payment Method for the aggregate amount of Membership Fees payable with respect to each renewal term.

Company may submit those charges for payment and you will be responsible for such charges. For clarity, the amount of Membership Fees that you authorize Company to bill will be calculated based on the number of Members enrolled in Plan at the time of renewal.

- c. You may toggle automatic renewal “on” or “off” for your account at any time by using self-service options in the member portal or by contacting Member Support for assistance. If you have questions about automatic renewal, please contact Member Support.
- d. Company shall attempt to notify you approximately thirty (30) days prior to automatic renewal using the contact information on file with Company. You are responsible for ensuring that your contact information remains accurate and up-to-date.

7. Cancellation Policy.

- a. Company reserves the right to immediately cancel your Plan membership without prior notice at any time and for any reason, including non-payment of Membership Fees. In the event that Company cancels your Plan membership for any reason other than non-payment of Membership Fees, you shall receive a pro-rata refund of Membership Fees paid to Company within thirty (30) calendar days after the effective date of cancellation.
- b. **If you wish to cancel your Plan membership, please send a cancellation notice with your name and Plan ID number to Member Support via mail or email to the address listed in Section 1 above, or call Member Support via telephone to request cancellation.**
- c. Members shall receive a full reimbursement of any Membership Fees that have been paid during the current term if (i) the cancellation request is received within the Cancellation Window, and (ii) no dental services have been provided to the Member under the Plan during the current term. Company reserves the right to contact Providers to determine whether dental services have been provided to the Member. Written notice of cancellation is deemed given when (i) sent via email to the correct address, or (ii) deposited in a mailbox, properly addressed, and postage prepaid to Company’s mailing address above.
- d. *Florida residents may be entitled to a full refund of Membership Fees paid to Company if the cancellation request is received within the Cancellation Window, regardless of whether any discounted dental services have been provided to any Member(s) under the Plan during the current term. Residents of California, Florida, North Dakota, and Oklahoma who cancel outside of the Cancellation Window may be entitled to a pro-rata refund. Please contact Member Support for details.*

8. Member Responsibilities.

- a. Members are required to make payment directly to Providers for all dental services provided hereunder in accordance with the Provider’s payment policies. **Plan savings and Providers are subject to change, and Members may be responsible for related additional services and charges, such as lab fees associated with dental services received. For an up-to-date list of participating Providers and Fee Schedule discounts, you may visit Plan website or contact Member Support at any time.**
- b. Member is responsible for verifying that his/her dental services provider is an active participant in Plan prior to receiving dental services. Providers are responsible for the provision of dental services and for informing Members of the Provider’s treatment policies.

9. Complaint Procedure.

- a. Complaints regarding your Plan membership must be submitted in writing to Member Support via email or mail to the address listed in Section 1 above. Member Support shall review your complaint and contact you regarding a resolution within five (5) business days.
- b. If you are dissatisfied after completing the complaint procedure detailed above, you may contact your state insurance department. Member Support will provide contact information for your state insurance department upon request.

10. Miscellaneous Terms.

- a. Warranty Disclaimer. Company and its partners, affiliated entities, and each of their respective officers, directors, members, employees, consultants, contract employees, representatives and agents, and each of their respective successors and assigns (Company and all such parties together, the “Company Parties”) make no representations or warranties concerning the Plan, including without limitation the quality of services rendered by Providers, and the Company Parties will not be responsible or liable for any claims, actions, suits procedures, costs, expenses, damages or liabilities arising out of use of, or in any way related to your participation in, the Plan. THE PLAN IS PROVIDED BY COMPANY ON AN “AS-IS” BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.
- b. Limitation of Liability. TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) SHALL ANY OF THE COMPANY PARTIES BE LIABLE TO YOU OR TO ANY OTHER PERSON FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, (B) ANY SUBSTITUTE SERVICES, (C) ANY AMOUNT, IN THE AGGREGATE, IN EXCESS OF THE GREATER OF THE AMOUNTS PAID AND/OR PAYABLE BY YOU TO COMPANY IN CONNECTION WITH THE PLAN IN THE TWELVE (12) MONTH PERIOD PRECEDING THE APPLICABLE CLAIM OR (D) ANY MATTER BEYOND COMPANY’S

REASONABLE CONTROL. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL OR CERTAIN OTHER DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU.

- c. Assignment. You may not assign, delegate or transfer these Member Terms or your rights or obligations hereunder, or your Plan account without Company's prior written consent. Company may transfer, assign, or delegate these Member Terms and our rights and obligations without consent.
- d. Choice of Law. These Member Terms are governed by and will be construed under the Federal Arbitration Act, applicable federal law, and the laws of the State of Texas, without regard to the conflicts of laws provisions thereof.
- e. Arbitration Agreement. Please read the following Arbitration Agreement carefully because it requires you to arbitrate certain disputes and claims with Company and limits the manner in which you can seek relief from Company. Both you and Company acknowledge and agree that for the purposes of any dispute arising out of or relating to the subject matter of these Member Terms, Company's officers, directors, employees and independent contractors ("Personnel") are third-party beneficiaries of these Member Terms, and that upon your acceptance of these Member Terms, Personnel will have the right (and will be deemed to have accepted the right) to enforce these Member Terms against you as the third-party beneficiary hereof.
 - 1. Arbitration Rules; Applicability of Arbitration Agreement. The parties shall use their best efforts to settle any dispute, claim, question, or disagreement arising out of or relating to the subject matter of these Member Terms directly through good-faith negotiations, which shall be a precondition to either party initiating arbitration. If such negotiations do not resolve the dispute, it shall be finally settled by binding arbitration in Austin, Texas. The arbitration will proceed in the English language, in accordance with the JAMS Streamlined Arbitration Rules and Procedures (the "Rules") then in effect, by one commercial arbitrator with substantial experience in resolving intellectual property and commercial contract disputes. The arbitrator shall be selected from the appropriate list of JAMS arbitrators in accordance with such Rules. Judgment upon the award rendered by such arbitrator may be entered in any court of competent jurisdiction.
 - 2. Costs of Arbitration. The Rules will govern payment of all arbitration fees. Company will pay all arbitration fees for claims less than seventy-five thousand (\$75,000) dollars. Company will not seek its attorneys' fees and costs in arbitration unless the arbitrator determines that your claim is frivolous.
 - 3. Waiver of Jury Trial. YOU AND COMPANY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR JURY. You and Company are instead choosing to have claims and disputes resolved by arbitration. Arbitration procedures are typically more limited, more efficient, and less costly than rules applicable in court and are subject to very limited review by a court. In any litigation between you and Company over whether to vacate or enforce an arbitration award, YOU AND COMPANY WAIVE ALL RIGHTS TO A JURY TRIAL, and elect instead to have the dispute be resolved by a judge.
 - 4. Waiver of Class or Consolidated Actions. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If, however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor Company is entitled to arbitration; instead, all claims and disputes will be resolved in a court as set forth in (6) below.
 - 5. Opt-out. You have the right to opt out of the provisions of this Section by sending written notice of your decision to opt out to the address set forth above, postmarked within thirty (30) days of first accepting these Member Terms. You must include (i) your name and residence address, (ii) the email address and/or telephone number associated with your account, and (iii) a clear statement that you want to opt out of this arbitration agreement.
 - 6. Exclusive Venue. If you send the opt-out notice in (5), and/or in any circumstances where the foregoing arbitration agreement permits either you or Company to litigate any dispute arising out of or relating to the subject matter of these Member Terms in court, then the foregoing arbitration agreement will not apply to either party, and both you and Company agree that any judicial proceeding (other than small claims actions) will be brought in the state or federal courts located in, respectively, Travis County, Texas or the federal district in which that county falls.
 - 7. Severability. If the prohibition against class actions and other claims brought on behalf of third parties contained above is found to be unenforceable, then all of the preceding language in this Arbitration Agreement section will be null and void. This arbitration agreement will survive the termination of your relationship with Company.

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ADDENDUM TO iSMILE DIRECT MEMBER TERMS AND CONDITIONS

KEEP ON SMILIN' ASSURANCE™ MAINTENANCE AGREEMENT

Keep On Smilin' Assurance ("KOSA") provides for scheduled maintenance of dental services rendered to active members in good standing (each a "Member") of iSmile Direct ("Plan"). Under KOSA, Member is entitled to receive care and services (hereinafter, "Maintenance") from a dental provider participating in Plan ("Provider") as necessary to maintain certain dental treatments in good condition and working order, subject to the terms and conditions of this KOSA Maintenance Agreement (the "Maintenance Agreement"). Maintenance hereunder will be provided at "Dental Treatment Maintenance Visits" as prescribed by Provider. This is a contract of limited duration that provides for scheduled maintenance only.

1. **Member Responsibilities.** In order to be eligible for Maintenance hereunder, the Member must fulfill each of the following requirements:
 - a. The Member must maintain good personal dental hygiene as prescribed by Provider;
 - b. The Member must attend all scheduled appointments prescribed by Provider, and
 - c. The Member must maintain his or her Plan membership in good standing by completing all scheduled payments of membership fees; and
 - d. The Member must maintain his or her account with Provider in good standing by completing all scheduled payments for dental services rendered.
2. **Eligible Treatments.** The following treatments (hereinafter, the "Eligible Treatments") are eligible for Maintenance under KOSA:
 - a. Fillings;
 - b. Crowns;
 - c. Buildups;
 - d. Posts;
 - e. Bridges;
 - f. Inlays;
 - g. Onlays;
 - h. Veneers;
 - i. Dental Implants;
 - j. Abutments;
 - k. Dentures;
 - l. Partial Dentures;
 - m. Sport Mouth Guards;
 - n. Bruxism Guards; and
 - o. Night Guards.

Member is only entitled to receive Maintenance on the Eligible Treatments set forth above. ***No other treatments or services are eligible for Maintenance hereunder.***
3. **Term.** Eligibility for Maintenance hereunder is contingent upon Member's continued enrollment in Plan. Cancellation of Member's Plan membership for any reason will result in immediate cancellation of this Maintenance Agreement and discontinuation of Member's eligibility for Maintenance on any Eligible Treatments rendered during Plan enrollment. Provided that Member maintains continuous enrollment in Plan, any Eligible Treatment rendered under the Plan is eligible for Maintenance for a maximum term of five (5) years following the date upon which the Eligible Treatment was originally performed by Provider.
4. **Specific Exclusions.** In addition to any other limitations or exclusions listed herein, Members shall not be entitled to receive Maintenance under this Maintenance Agreement in the following circumstances:
 - a. The Maintenance is related to a provisional or temporary treatment (only permanent treatments are eligible);
 - b. The Maintenance is related to the loss of a removable prosthetic or appliance;
 - c. The Maintenance is related to cosmetic discoloration;
 - d. The Maintenance is the result of a Member's pre-existing medical condition;
 - e. The Maintenance is related to treatments or services not performed by a Provider; and
 - f. The Maintenance is related to medical conditions resulting from substance abuse.
5. **Limitation on Maintenance Value.** The treatment cost associated with Maintenance rendered to Member hereunder (the "Treatment Cost") shall be calculated in accordance with the Plan fee schedule ("Fee Schedule"). For each Plan issued, Member(s) shall be entitled to receive Maintenance from Provider as necessary to maintain Member's Eligible Treatment(s) in good condition and working order at no charge to Member up to a total maximum Treatment Cost of one thousand dollars (\$1,000.00) per Plan enrollment during each year of the Plan (the "Annual Limit"). This Annual Limit

cannot be transferred and does not roll over from one Plan year to the next. If Member's Treatment Cost for Maintenance exceeds this Annual Limit during any year of the Plan, Member shall be responsible for any additional costs associated therewith.

6. **Scheduling Maintenance.** Member must notify Provider of the need for Maintenance within seven (7) days of discovering that such Maintenance is required. Provider will schedule an appointment with Member to provide any necessary Maintenance and schedule follow-up appointment(s) as necessary. Rescheduling of initial and follow-up appointments is permitted at Provider's discretion. In the event that Member fails to either (i) timely notify Provider of the need for Maintenance, or (ii) appear for a scheduled appointment with Provider, Member may cease to be eligible for Maintenance with regard to the Eligible Treatment at issue.
7. **Disclaimer; Remedy Limitation; Damages Exclusion.** This Maintenance Agreement is not an insurance policy. Neither Plan nor participating Provider(s) make any other warranties, written or express, on dental services provided to Members pursuant to Plan. Unless prohibited by governing law, all implied warranties, including any implied warranties of merchantability and fitness, are excluded. Member's sole recovery for breach of this Maintenance Agreement or any implied warranty hereunder shall be damages in an amount not to exceed the lesser of (i) the actual Treatment Cost, or (ii) \$1,000 in any 365-day period (that is, the Annual Limit payable to Provider for Maintenance of Eligible Treatments). In no event shall Plan, participating Provider(s), or Administrator be liable for incidental or consequential damages.
8. **Other Available Coverage.** Provider may require Member to submit claims for Maintenance of Eligible Treatment(s) under any available insurance or other medical or accidental health benefit programs prior to obtaining service under this Maintenance Agreement.
9. **Dispute Resolution.** If a dispute arises between Member and Provider relating to Provider's performance of Maintenance under this Maintenance Agreement, Member may contact Dental Warranty Corp. as set forth above to register a complaint. Dental Warranty Corp. will work respectfully and diligently with Member and Provider to resolve any such complaint within thirty (30) days. If the complaint is not resolved within 30 days, Member agrees to participate in mediation before a neutral mediator that is mutually agreeable to Provider and Member prior to pursuing any other legal remedy.
10. **Administrator.** KOSA is administered on behalf of Plan and Provider by Dental Warranty Corp. Please contact Dental Warranty Corp. with questions about KOSA or to report any problems:

Dental Warranty Corp.
 6301 Campus Circle Dr. E, Ste. 110
 Irving, TX 75063
 Attention: KOSA Administrator
 (800) 691-7234
claims@dw-corp.com