

AMERICAN DENTAL HYGIENISTS' ASSOCIATION CONSTITUENT CHARTER AGREEMENT

This Constituent Charter Agreement (“Agreement”) is entered into by and between the American Dental Hygienists' Association, an Illinois not-for-profit corporation (“ADHA”), and the South Carolina Dental Hygiene Association, a South Carolina nonprofit corporation (“Constituent”).

Purposes

Pursuant to Article X, Section 2 of the ADHA Bylaws, the ADHA Board of Trustees may authorize the establishment of constituent organizations which shall (i) be organized and operated in accordance with the ADHA bylaws and such additional rules and policies as may be adopted by the ADHA Board of Trustees; (ii) fulfill criteria for affiliation as may be established by the Board from time to time; (iii) enter into constituent agreements with the ADHA; and (iv) be issued a charter.

The purpose of this Agreement is to charter the Constituent and formalize the relationship between the ADHA and the Constituent (“Constituent Charter”) in accordance with the ADHA Bylaws and policies adopted by the ADHA Board of Trustees.

Agreement

In support of the purposes set forth above, which are incorporated herein by this reference, and for good and reasonable consideration, the ADHA and the Constituent agree that the Constituent Charter shall be comprised of and governed by the following terms and conditions.

1. **Area Served and Membership.**

- (a) The Constituent shall have the non-exclusive right to promote the interests of the ADHA in the state set forth on Exhibit A attached hereto (the “State”).
- (b) The ADHA automatically shall assign and the Constituent will grant Constituent membership to each member in good standing in the ADHA whose address on record with the ADHA is within the State.
- (c) The Constituent will grant membership to any ADHA member in good standing residing outside of the State who (i) submits a request for Constituent membership to the ADHA and agrees to abide by the Constituent bylaws, and such other rules, policies, procedures and regulations as the ADHA may adopt; and (ii) is approved by the ADHA for membership in the Constituent.
- (d) ADHA members shall be placed in the Constituent membership category that corresponds with their ADHA membership category. The Constituent may confer “Life Membership” on a Constituent member based on such criteria as may be established by the Constituent’s Board of Trustees.
- (e) All members of the Constituent must be members of ADHA as well as at least one component.

2. Relationship of the Parties.

- (a) The Constituent shall organize itself and conduct its activities in such a manner as to establish its fundamental alignment and functional compatibility with the ADHA.
- (b) The Constituent's general purposes and objectives shall be complementary and consistent, on a local basis within the State, with those of the ADHA and the Constituent shall advance the general and specific purposes of the ADHA within the State. The Constituent shall abide by, and conduct its affairs in accordance with, the ADHA's bylaws, policies, rules and regulations, the Constituent Bylaws, and any and all additional policies, rules, and regulations that the ADHA, in its sole discretion, may amend or institute from time to time.
- (c) The Constituent shall maintain its bylaws in substantial conformance with the form of Standardized Constituent Bylaws provided by ADHA, as may be amended by ADHA from time to time. Any modification to the Standardized Constituent Bylaws must be submitted to the ADHA's Board of Trustees, or their designee(s), for its review and approval prior to adoption by the Constituent. The Constituent must take all action necessary to adopt, amend, or repeal such bylaw provisions as the ADHA advises are necessary to maintain the Constituent's alignment with the ADHA's bylaws and required Standardized Constituent Bylaws and any other rules and regulations adopted by the ADHA from time to time. Constituent acknowledges that the ADHA has the authority to require the Constituent to adopt and implement amendments to the Constituent's bylaws.
- (d) The Constituent and the ADHA shall collaborate in the creation and operation of a coordinated scheme under which they will conduct, independently and together, education, marketing, and promotional activities designed to advance both the ADHA's and the Constituent's purposes and strategic objectives within the State.
- (e) Nothing in this Agreement shall be deemed to create a legal partnership or joint venture, employment, or agency relationship between the parties. Neither party is authorized to incur any liability, obligation, or expense on behalf of the other. The ADHA is not liable or responsible for the debts or obligations of the Constituent or its Components (as defined below), and the Constituent is not liable or responsible for the debts or obligations of the ADHA.

3. ADHA Responsibilities.

- (a) To the extent and in such manner set forth in the ADHA's policies, the ADHA shall support the Constituent in the areas of organization and governance; membership; education and programming; and leadership development.
- (b) The ADHA shall be responsible for invoicing, collecting and processing annual Constituent and Component dues and will issue regularly scheduled payments to the Constituent for dues collected on its behalf. ADHA shall remit dues collected for the Constituent's Components to the Constituent. The Constituent shall be responsible for managing, maintaining and accounting for such Component dues for the benefit of the Component(s). Notwithstanding the foregoing, dues

collected by ADHA on behalf of a Constituent's incorporated Components shall be remitted directly to such incorporated Component.

- (c) Constituent and Component dues shall be established by the Constituent Board of Trustees, provided, however, any increase in Constituent dues shall be subject to the prior review and approval of the ADHA Board of Trustees, or its designee(s), which shall not be unreasonably withheld.
- (d) The ADHA shall maintain the Constituent's membership database, which shall include the Component database.
- (e) The ADHA shall provide Constituent leaders with operational guidance.

4. Constituent Responsibilities.

- (a) The Constituent must be incorporated as a not-for-profit corporation and must maintain its corporate status in good standing at all times. If the Constituent is not currently incorporated, it must take all action necessary to incorporate in the state of its choosing no later than three (3) months following the date of this Agreement.

If not currently incorporated, the purposes of the Constituent as set forth in its articles of incorporation shall read as follows:

The purposes of this corporation are to advance and promote the interests of the American Dental Hygienists' Association, an Illinois not-for-profit corporation, and other appropriate not-for-profit professional and trade association purposes.

- (b) If incorporated outside of the State, the Constituent must qualify to do business in the State in accordance with applicable state and local law and maintain its status in good standing in the State.
- (c) The Constituent must have a Federal Tax ID number ("EIN"). If the Constituent is incorporated and does not have an EIN, it must obtain one from the Internal Revenue Service immediately (go to <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Apply-for-an-Employer-Identification-Number-%28EIN%29-Online>). If the Constituent is unincorporated, it must obtain an EIN immediately following its incorporation. The Constituent must use its own EIN on all bank accounts, tax and other filings.

WARNING: If the Constituent is not incorporated, but has a Federal tax exemption, it will need to obtain a new EIN upon incorporation and reapply for tax exempt status using IRS Form 1024 (see Section 4(e) below) using its new EIN.

- (d) The Constituent must obtain an exemption from Federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986, as amended (the "Code"). If the Constituent does not currently have an exemption from Federal income tax, it must take all action necessary to obtain an exemption by completing and filing the application for exemption from Federal income tax (known as Form 1024 and available at www.irs.gov) within six (6) months

following the date of this Agreement. The Constituent must submit a copy of its filed Form 1024 to ADHA immediately upon filing with the Internal Revenue Service (“IRS”). The Constituent shall take all actions necessary to maintain such tax-exempt status at all times and shall submit a copy of the determination letter received from the IRS granting such status to the ADHA immediately upon receipt.

- (e) The Constituent shall prepare and submit all federal, state, and local annual corporate and tax filings in a timely manner, including, without limitation, the appropriate Form 990 annual information return which must be filed with the IRS each year.
- (f) The Constituent shall hold annual member meetings, regular Board meetings, and shall conduct an annual program of activities, including regular communication with Constituent members, and education, marketing, and promotion in the State, that meets the minimum requirements set for the Constituent by the ADHA.
- (g) The Constituent shall secure directors and officers (D&O) and general liability insurance policies, which insurance shall include coverage for the Constituent, its Components and their respective officers and trustees in such amounts as may be determined by the ADHA Board of Trustees.
- (h) The Constituent shall provide the following information to the ADHA annually on such dates as the ADHA may establish in its sole discretion:
 - (i) Copies of minutes of all meetings of the Constituent’s voting members, Board of Trustees, and committees having the authority of the Board of Trustees (e.g., Executive Committee, Audit Committee);
 - (ii) A copy of the Constituent’s education and meeting calendar;
 - (iii) List of the Constituent’s Officers and Directors;
 - (iv) List of the Constituent’s Components;
 - (v) Copies of all reports received from the Constituent’s Components;
 - (vi) Officer Affirmation Statement (x) acknowledging that the appropriate Constituent officer has reviewed the terms of this Agreement; and (y) representing and warranting that the Constituent is in compliance with the terms of this Agreement;
 - (vii) A copy of the Constituent’s financial statements (including a list of all bank accounts maintained by the Constituent and the name of the financial institution(s) holding such accounts);
 - (viii) A copy of the Constituent’s filed IRS Form 990 and any required state tax return(s);
 - (ix) A copy of the Constituent’s filed state annual report(s); and

- (x) Such other information as the ADHA's Board of Trustees may request from time to time.

5. Components.

- (a) The Constituent may form committees or subgroups (referred to as "Components") for the sole purpose of conducting local meetings and activities; provided however, such Components must be created and controlled by and report to the Constituent. In addition:
 - (i) The name, boundaries and eligibility requirements for all Components shall be established by the Constituent, subject to the prior written approval of the ADHA Board of Trustees, and such rules and policies as may be adopted by the ADHA Board of Trustees.
 - (ii) Components are an integral part of the Constituent and may not maintain a legal existence or identity separate from the Constituent. Accordingly, Components may not be incorporated.
 - (iii) Components may not enter into contracts or otherwise act on behalf of the Component or Constituent.
 - (iv) Components are governed by the Constituent's bylaws and may not maintain their own bylaws. Components may, however, maintain operational procedures or guidelines governing the operation of the Component.
 - (v) Components may not have a board of trustees or officers. Components may maintain a "council" or similar subgroup led by volunteer leaders in the form of a Component Chair, Vice Chair, etc. However, such individuals do not have legal authority to enter into contracts or otherwise act on behalf of the Component or Constituent.
 - (vi) Components may not maintain checking or other accounts. The Constituent must be responsible for all legal and financial aspects of its Components. ADHA will remit dues earmarked for the Constituent's Components directly to the Constituent. The Constituent shall designate and allocate such funds for its Components sole and exclusive use in furtherance of Component activities. The Constituent must (i) control its' Components funds; (ii) oversee its Components activities; (iii) include its Components activities in its reports; and (iv) include any Component income on its tax returns.
 - (vii) The Constituent shall require all of its Components to review and sign an unincorporated component charter whereby the Component acknowledges, among other things, the restrictions set forth above.
- (b) Notwithstanding anything set forth above to the contrary, under certain circumstances, the Constituent may permit one or more of its Component(s) to incorporate and maintain a corporate existence separate and apart from the Constituent. Specifically, a Component that (i) is chartered by a Constituent; (ii)

meets such requirements for incorporation established by the ADHA Board of Trustees from time to time; (ii) enters into a "Component Charter Agreement" with the Constituent (in a form provided by and approved by ADHA); and (iii) enters into a "Trademark and Branding License Agreement" with ADHA may, with the Constituent's prior written consent, maintain a formal corporate existence separate and apart from the chartering Constituent. Provided, however, if the Constituent maintains an incorporated Component(s) it must comply with all requirements set forth in this Section 5 with the exception of those set forth in Section 5(a)(ii)-(vi) above. ADHA shall remit dues collected on behalf of an incorporated Component directly to such Component.

- (c) The Constituent shall take all steps necessary to insure that its Components hold member meetings, regular leadership meetings, and conduct an annual program of activities that meets the minimum requirements set for the ADHA's Components by the ADHA.
- (d) The Constituent must require its Components to provide regular reports to the Constituent and such reports must include, at a minimum, a detailed report of all Component activities and list of the Components leaders.
- (e) The Constituent shall, within twelve (12) months from the date of this Agreement (i) evaluate its Component structure; (ii) adopt a policy governing the structure, governance and operation of its Components in accordance with the terms of this Agreement and the ADHA's bylaws, policies rules and regulations and submit a copy of such policy to the ADHA Board of Trustees for its review and approval; (iii) disband inactive Components (which shall include, at a minimum, those Components lacking active participation); and (iv) revoke the charter of all Components not in Compliance with the ADHA's bylaws, policies, rules or regulations or the terms of this Agreement. All funds held by a disbanded or revoked Component shall immediately be remitted to its Constituent. The Constituent may retain any funds held in the name of a disbanded or revoked Component.
- (f) The Constituent shall have eighteen (18) months from the date of this Agreement to bring its Component structure into compliance with the terms of this Section 5.

6. Constituent Limitations.

- (a) The Constituent (including its officers and directors) shall make no statement or express a position on any issue that may be construed as representing a statement or position of the ADHA, except insofar as the ADHA has expressly authorized the Constituent in writing to do so on its behalf.
- (b) Unless expressly authorized in writing by the ADHA, the Constituent shall not bind the ADHA to any contract, written or oral, expressed or implied. In entering into any agreement, the Constituent must specify that it is acting on its own behalf and not on behalf of the ADHA.
- (c) Under no circumstances shall the Constituent use the ADHA's name to secure loans or credit, nor shall the ADHA be bound in any way by such agreements.

- (d) The Constituent shall be solely responsible for its (and its Components) acts, omissions, debts, and liabilities, and for fulfilling all requirements imposed by governmental authorities.
- (e) The Constituent shall not act as a political action committee, or undertake activities resembling those customarily conducted by a political action committee.
- (f) The Constituent may not amend or revise its bylaws without the ADHA Board of Trustee's prior written approval.

7. Trademarks and Branding

- (a) The ADHA hereby grants Constituent a royalty free, limited, revocable license to use the term "ADHA" and/or "American Dental Hygienists' Association" (collectively, the "ADHA Mark") within the State to indicate its affiliation with the ADHA ("License").
- (b) The Constituent's legal name must be as follows: "Dental Hygienists' Association" preceded by the name of the State. For example – "Georgia Dental Hygienists' Association". If the Constituent's current legal name does not comply with the terms of this Section 7(b) it shall have three (3) months following the date of this Agreement to take all steps necessary to change its name. A Constituent may also register an assumed name with its state of incorporation in order to conduct business using a name that is in compliance with the terms of this Section 7(b). In addition, the Constituent must change its website and all marketing and other materials bearing its name such that its use is in compliance with the terms of this Section 7(b).
- (c) The ADHA hereby grants the Constituent a royalty free, limited, revocable license to use, and the Constituent shall be required to use, the ADHA Constituent logo set forth on Exhibit B ("Constituent Logo") for the signification of its identity on all materials in all formats. The Constituent agrees that it shall not use any other logo, including any modified version of the Constituent Logo, on any materials whatsoever without the ADHA's prior written consent. The Constituent shall have twenty-four (24) months from the date of this Agreement to rebrand its website and all marketing, letterhead and other materials to include the Constituent Logo and remove the Constituent's current logo.
- (d) The Constituent hereby acknowledges that all right, title and interest in and to the ADHA Mark, ADHA name and Constituent Logo belong to the ADHA.
- (e) The Constituent shall take all reasonable steps necessary to protect the ADHA name, ADHA Mark and Constituent Logo from unauthorized or inappropriate use, and shall have no right to assign, sub-license, or in any other manner transfer the right to use the ADHA name, ADHA Mark or Constituent Logo to any other party.
- (f) Correspondence, brochures, letterhead, mastheads, newsletters, Web pages, or any other documents and information produced or published by the Constituent, whether in printed or electronic form, shall through the use of name, identify the Constituent in a manner that clearly signifies its affiliation with the ADHA.

- (g) The Constituent may not use the ADHA name in a confusing manner or manner that would imply that such materials or activities were being conducted by the ADHA.
- (h) The ADHA shall have the right to reference the Constituent Charter in marketing, membership, and other materials, and to use the Constituent's name for this purpose.
- (i) The ADHA may inspect all of the Constituent's uses of the ADHA's name, ADHA Mark and Constituent Logo, and Constituent agrees to comply with any such request. The ADHA shall have the right to demand (i) that the Constituent modify its use of the ADHA's name, Constituent Logo and/or ADHA Mark in accordance with the ADHA's instruction; or (ii) cease and desist any use of the ADHA's name, ADHA Mark or Constituent Logo that the ADHA deems confusing or inappropriate, in its sole discretion. Constituent shall comply with any such requests as soon as practical, but in any event within no more than 10 days.
- (j) Except as expressly granted to Constituent under the terms of this Agreement, all right, title and interest in and to (i) the ADHA Mark, ADHA name and Constituent Logo shall at all times remain with the ADHA. The Constituent shall not take any action that is inconsistent with the ADHA's ownership of the ADHA's name, the ADHA Mark or the Constituent Logo or that would impair the ADHA's rights, as applicable. All goodwill and benefits accruing from use of (i) the ADHA Mark, ADHA's name and the Constituent Logo shall inure to the benefit of the ADHA. The Constituent shall not, at any time, seek to register the ADHA Mark, ADHA name or Constituent Logo in its own name.

8. Representations and Warranties.

- (a) The Constituent makes the following representations and warranties to the ADHA:
 - (i) Upon completion of the actions required in Section 4(a), the Constituent is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of _____ **[insert state or place of incorporation]**.
 - (ii) Upon completion of the actions required in Section 4(b), the Constituent is qualified to do business in the State and is in good standing under the laws of the State.
 - (iii) The Constituent has not, and will not, take any action that would prevent it from being eligible for exemption from the payment of Federal income taxes as a tax exempt organization within the meaning of Section 501(c)(6) of the Code.
 - (iv) The Constituent shall at all times (x) conduct its activities in a manner consistent with an organization exempt from Federal taxation under Section 501(c)(6) of the Code; and (y) maintain an exemption from Federal taxation under Section 501(c)(6) of the Code.

- (v) The Constituent shall abide by (x) all applicable requirements of the ADHA's Bylaws, policies, rules and procedures, as may be enacted or amended from time to time by the ADHA; and (y) the terms of this Agreement.
- (vi) The Constituent shall abide by all applicable federal, state and local laws, requirements and regulations.
- (b) The ADHA makes the following representations and warranties to the Constituent:
 - (i) The ADHA is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the State of Illinois.
 - (ii) The ADHA has not, and will not, take any action that would prevent it from being eligible for exemption from the payment of Federal income taxes as a tax exempt organization within the meaning of Section 501(c)(6) of the Code.
 - (iii) The ADHA shall at all times conduct its activities in a manner consistent with an organization exempt from Federal taxation under Section 501(c)(6) of the Code.
 - (iv) The ADHA shall abide by all applicable requirements of the ADHA's Bylaws, policies, and procedures, as may be enacted or amended from time to time by the ADHA.
 - (v) The ADHA shall abide by all federal, state and local laws, requirements and regulations.

9. Termination of Constituent Charter.

- (a) This Agreement and the Constituent Charter shall continue until terminated or revoked by the ADHA upon prior written notice to the Constituent and in accordance with its policies and procedures. The ADHA may revoke the Constituent Charter and terminate this Agreement in the event the Constituent breaches the terms of this Agreement or any of the representations and warranties contained herein, or such revocation is otherwise in the best interests of the ADHA, as determined by the ADHA in its sole discretion.
- (b) The Constituent may terminate this Agreement and surrender its Constituent Charter upon ninety (90) days prior written notice to the ADHA. The ADHA may accelerate the effective date of such termination upon written notice to the Constituent in its sole discretion.
- (c) Upon the effective date of any notice of revocation or surrender of the Constituent Charter and termination of this Agreement, the Constituent shall:
 - (i) Immediately cease all activities conducted in support of the ADHA pursuant to this Agreement;

- (ii) Immediately cease using the ADHA name, ADHA Mark, Constituent Logo and the ADHA's other intellectual property;
 - (iii) Immediately cease and terminate any representation of affiliation with the ADHA including, without limitation, in any correspondence, brochures, newsletters, Web pages, or any other documents or information produced or published by the Constituent, whether in printed or electronic form, through name, statement, nomenclature, logo, graphic design, or other means;
 - (iv) Deliver all Constituent financial and corporate records and files to the ADHA;
 - (v) Transfer all assets of the Constituent (including, without limitation, all intellectual property including sponsor and membership lists) to the ADHA after paying or making provision for the payment of all the liabilities of the Constituent; and
 - (vi) Not represent or provide benefits or services to any ADHA members, or compete in any way with the ADHA for a period of twenty four (24) months from the effective date of the termination of this Agreement.
- (d) Upon the revocation, surrender or termination of the Constituent Charter and this Agreement and/or the dissolution, merger, or other change in corporate status of the Constituent (including, without limitation, a fundamental change in purpose), the Constituent shall, after paying or making provision for the payment of all the liabilities of the Constituent, transfer all assets of the Constituent to the ADHA.
10. Notice. All notices and other communications under this Agreement shall be in writing and shall be effective (a) upon personal delivery, (b) upon telephonically confirmed delivery by facsimile, (c) on the first business day after receipted delivery to a courier service that guarantees next-business-day delivery, under circumstances where such guaranty is applicable, or (d) on the third business day after mailing, by certified or registered mail, addressed as follows:

If to the ADHA:

American Dental Hygienists' Association
444 North Michigan Avenue, Suite 3400
Chicago, IL 60611
Attention: Chief Executive Officer

If to the Constituent:

To the then-current Constituent President at the address on record with the ADHA

Or to such other address or person as the notifying party may designate by written notice.

11. Complete Agreement. All of the provisions set forth in this Agreement, the exhibits to this Agreement, and in the applicable provisions of the ADHA's Bylaws, policies, rules, and procedures, as may be amended from time to time, shall constitute the entire agreement between the parties regarding the nature and terms of the Constituent Charter.
12. Indemnification. The Constituent shall defend, indemnify and hold the ADHA harmless from and against any and all third-party claims, suits, demand, causes of action, losses, damages, costs, fees, and other expenses (including, without limitation, reasonable attorneys' fees), brought against the ADHA arising out of, in connection with or relating to the Constituent's actions, failure to act, negligence, this Agreement or the Constituent Charter.
13. Choice of Law. This Agreement shall be interpreted, construed and governed by and under the laws of the State of Illinois

Signature page to follow

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives on the date written below.

AMERICAN DENTAL HYGIENISTS' ASSOCIATION

By: _____

Its: _____

Date: _____

SOUTH CAROLINA DENTAL HYGIENE ASSOCIATION

By: _____

Its: President

Date: _____

EXHIBIT A

STATE

SOUTH CAROLINA

EXHIBIT B
CONSTITUENT LOGO

