

STATE OF _____ §

COUNTY OF _____ §

CONTRACT FOR PROFESSIONAL SERVICES
(EMPLOYMENT AGREEMENT WITH OPTION TO PURCHASE)

AGREEMENT, made and effective the _____ (____) day of _____, 20____, by and between _____, **D.D.S., INDIVIDUALLY, AND** _____, **D.D.S., INC.** (hereafter collectively referred to as **EMPLOYER**); and _____, **D.D.S.** (hereafter referred to as **EMPLOYEE**).

WITNESSETH:

WHEREAS, EMPLOYER through employees and associates has been and is now engaged in the profession or practice of dentistry and renders these professional services through employees and associates who are duly licensed to practice dentistry in the State of _____;

WHEREAS, EMPLOYER is desirous of entering into a long-term partnership with EMPLOYEE wherein EMPLOYEE would ultimately buy all or a portion of the Practice from EMPLOYER;

WHEREAS, EMPLOYEE is qualified in the field of dentistry and licensed to practice that profession in the State of _____;

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, it is agreed by and between the parties hereto as follows.

TERMS AND CONDITIONS

1. Services. EMPLOYER hereby contracts for EMPLOYEE's services to be performed in the EMPLOYER's practice of dentistry located at _____ (street address) _____, _____ (city) _____, _____ (state and zip code) _____ (hereinafter the "EMPLOYER's OFFICES"), and EMPLOYEE agrees to perform EMPLOYEE's dental treatment and consultation services at EMPLOYER's OFFICES upon the terms and conditions hereinafter stated. EMPLOYER shall be entitled to the exclusive use of the EMPLOYEE's services. EMPLOYEE may not furnish dental services for any other party after the date first written above without the express written consent of the EMPLOYER. EMPLOYER, however, specifically agrees that such written consent shall not be unreasonably withheld.

2. Term. The term of this Agreement shall be from _____, 20____, to _____, 20____, unless terminated at an earlier date pursuant to provisions of Section 12 below. After the expiration of the initial term hereof, this Agreement shall then be renewed automatically from year to year for successive _____ (____) year terms unless either party provides the other party with at least sixty (60) days prior written notice of their intent not to renew this Agreement.

3. Duties. EMPLOYEE faithfully agrees to provide EMPLOYEE's dental examination, consultation, and treatment services in a professional manner, to conduct himself in such a way as shall serve the best interest of the EMPLOYER and EMPLOYEE, and to perform EMPLOYEE's work in accordance with customary and professional rules of ethics and conduct, to abide by all rules and regulations of the _____ (use name of applicable state governing entity) _____,

and to comply with any other laws of the State of _____ regulating or pertaining to the practice of dentistry and the conduct of the EMPLOYER's PRACTICE.

EMPLOYEE agrees to comply in all respects with presently existing office rules and procedures of the EMPLOYER and those that may be established in the future by, or for the benefit of, the EMPLOYER.

EMPLOYEE agrees to spend a minimum of forty (40) hours during five (5) days of the week pursuing his profession at the office of EMPLOYER. Such forty (40) hour requirement shall be fulfilled on the days and hourly timeframes that are mutually agreeable to both EMPLOYER and EMPLOYEE.

Exceptions and/or changes to the above referenced minimum hours or days shall be in accordance with the rules and procedures of the EMPLOYER and those that may be established in the future by, and for the benefit of, the EMPLOYER.

4. Facilities, Equipment, and Services. EMPLOYER shall provide the following equipment and services to EMPLOYEE: all equipment, supplies, laboratory costs, instruments, necessary personnel, leasehold usage, scheduling of appointments, processing of patient records, maintenance of patient financial records, billing of patients for services rendered, and other administrative duties related to patient care. EMPLOYEE agrees that EMPLOYER alone shall determine what facilities, equipment, and services are necessary for the administration of EMPLOYER's OFFICES.

5. Vacations, Holidays, and Attendance at Meetings and/or Dental Conventions.
The parties agree that subsequent to _____, 20____, EMPLOYEE shall be entitled to a _____ (____) week vacation during this initial _____ (____) year term of employment, such week to be defined as five (5) working days. It is understood that EMPLOYEE shall receive both fixed as well as variable compensation as referenced in Section 6 of this Agreement during said vacation time. All days, dates, or time in excess of this vacation

period must be mutually agreed upon by and between EMPLOYER and EMPLOYEE. EMPLOYER further agrees that EMPLOYEE may attend such dental meetings and/or conventions and said attendance at such meetings and/or conventions shall be by mutual agreement of EMPLOYER and EMPLOYEE.

EMPLOYEE shall be entitled to those certain holidays observed by EMPLOYER in the normal conduct of EMPLOYER's business and that shall be published annually by EMPLOYER.

6. Compensation. EMPLOYER shall collect all moneys and accounts for dental services provided by EMPLOYEE at the EMPLOYER's OFFICES, and shall deposit such sums in an account of the EMPLOYER. EMPLOYEE shall not attempt to collect moneys or accounts from the patients of EMPLOYER.

For services rendered pursuant to this Agreement, EMPLOYER shall pay fixed compensation to EMPLOYEE the sum of _____ Dollars (\$_____) bi-monthly for the first _____ (____) months that EMPLOYEE is employed by EMPLOYER and _____ Dollars (\$_____) bi-monthly for each month that EMPLOYEE is employed by EMPLOYER thereafter; and a proportionate share of such monthly compensation in the event EMPLOYEE is employed for only a portion of a month. Fixed compensation shall be paid on the first (1st) and sixteenth (16th) day of each month. In the event that the first (1st) or sixteenth (16th) day of the month should fall on a weekend or a legal holiday, such payment shall be made on the immediately succeeding business day.

As referenced above and in furtherance of services rendered pursuant to this Agreement, in addition to fixed compensation, EMPLOYER shall pay to EMPLOYEE a variable amount per month for the first _____ (____) months EMPLOYEE is employed by EMPLOYER; with such monthly compensation computed as _____ percent (____%) of all collections received per month from patients for which dental services were rendered by EMPLOYEE in excess of _____ Dollars (\$_____) per month. After

the first _____ months and in furtherance of services rendered pursuant to this Agreement, in addition to fixed compensation, EMPLOYER shall pay to EMPLOYEE a variable amount per month of _____ percent (_____%) of all collections received per month from patients for which dental services were rendered by EMPLOYEE in excess of _____ Dollars (\$_____) per month.

Variable percentage compensation shall be paid on the _____ (____) day of each month for collections deposited in the bank account of the practice by the EMPLOYER for the immediately preceding monthly period ending on the last day of the month. It is understood by both EMPLOYER and EMPLOYEE that collections received through payment by various credit card facilities are deemed to have been collected as of the date such card is used in tendering of payment by patient. If any check and/or credit card payment is subsequently determined to be uncollectible, such amount shall be deducted from the variable account percentage amount to be paid to EMPLOYEE in the month that such collection shall be deemed to be uncollectible. In the event that the _____ (____) day of the month should fall on a weekend or a legal holiday, such payment shall be made on the immediately succeeding business day.

EMPLOYER agrees that in furtherance of both EMPLOYER's and EMPLOYEE's long-term interest in a business relationship, EMPLOYER shall set aside for EMPLOYEE's future benefit an amount equal to _____ percent (_____%) of all collections received per month from patients for which dental services were rendered by EMPLOYEE (hereinafter the "ESCROW AMOUNT"). It is specifically understood by both EMPLOYER and EMPLOYEE that EMPLOYEE does not have constructive receipt of such ESCROW AMOUNT. EMPLOYEE understands that the right to the ESCROW AMOUNT is as a general creditor to EMPLOYER without any collateral lien to specific assets of EMPLOYER. It is further understood by EMPLOYEE that the ESCROW AMOUNT shall be used by EMPLOYEE for the express purpose of making a downpayment to EMPLOYER pursuant to the Option to Purchase Practice Interest as expressed hereafter in Section 17. It is also agreed by both EMPLOYER and EMPLOYEE that if the Option to Purchase Practice Interest as expressed in Section 17 is not

exercised by EMPLOYEE, and, if, EMPLOYEE is not in material violation of the Covenant Not to Compete as discussed herein in Section 13, the full amount of such ESCROW AMOUNT shall be paid to EMPLOYEE One Hundred Twenty (120) days following the Date of Termination, as discussed in Section 12 of this Agreement. Further, EMPLOYEE is fully aware that the full amount of such Escrow amount when paid out to EMPLOYEE shall be taxable as ordinary income and shall be included as a part of W-2 taxable wages for the year when such payment is made.

EMPLOYEE agrees that all accounts receivable are the property of EMPLOYER and will remain as the property of EMPLOYER for collection. Irrespective of the manner in which EMPLOYER may ordinarily account for collections attributable to services performed by EMPLOYER's employees and associates, the parties agree that EMPLOYEE shall not be due any compensation for collections including prepayments for which services have not been provided by EMPLOYEE.

7. Employee's Obligations. EMPLOYEE agrees to provide at EMPLOYEE's own expense and undertake the following:

- a. Use the established forms and records provided by EMPLOYER, at EMPLOYER's expense;
- b. Supervise the assigned staff according to the policies and procedures of EMPLOYER;
- c. Provide continuing professional education, to include costs for business or travel expenses to such educational pursuits, with the exception of certain continuing professional education expenses that shall be shared between EMPLOYER and EMPLOYEE based upon the mutual and prior agreement of EMPLOYER and EMPLOYEE;
- d. Provide and file with the Internal Revenue Service, in a timely fashion, all personal income taxes; and
- e. Provide life, disability, and health insurance; automobile use, maintenance, and insurance; and other personal and professional expenditures.

8. Insurance. The office general liability insurance shall be secured by and paid for by EMPLOYER. Individual professional liability and/or malpractice insurance shall be secured by EMPLOYEE. It is further agreed that EMPLOYEE shall carry malpractice insurance with a minimum coverage of One Million and no/100 Dollars (\$1,000,000.00) per occurrence and Three Million and no/100 Dollars (\$3,000,000.00) in the aggregate through a malpractice carrier. EMPLOYEE shall cause EMPLOYER (and/or any dentist employed by EMPLOYER as required by the insurance carrier) to be named an additional insured party in EMPLOYEE's coverage and EMPLOYER shall pay all premiums and expenses attributable to the additional named insured approved by EMPLOYER. EMPLOYEE agrees and acknowledges that EMPLOYER shall not be in any way responsible for securing such insurance on behalf of EMPLOYEE.

EMPLOYEE shall provide to EMPLOYER a copy of all malpractice insurance policies and evidence, as requested, that such policies are in full force both now and during the course of EMPLOYEE's relationship with EMPLOYER along with copies of all licenses pertaining to EMPLOYEE.

9. Records. In the event of a termination of this Agreement, other than through the Exercise of the Option to Purchase Practice Interest, as hereinafter provided and with the exception of those patients that are listed on Exhibit "A" attached hereto, all records of EMPLOYER's patients treated by EMPLOYEE shall remain the property of EMPLOYER. Further, EMPLOYEE will refrain from any action that would directly or indirectly damage or impair EMPLOYER's rights, title, and interest in and to said patient records. EMPLOYEE agrees not to accept or to otherwise acquire possession of any copy of said records or other confidential patient information of EMPLOYER including, by way of example and not limitation, EMPLOYER's patient lists. Should EMPLOYEE materially violate the provisions of this Section 9, EMPLOYER shall be entitled to liquidated damages in the amount of _____ Dollars (\$_____) per patient record, which damages shall be payable to the EMPLOYER within _____ (____) days of written notice by

EMPLOYER. In the event EMPLOYEE requires a record for reason of suit against EMPLOYEE or as may otherwise be required by law or by any rule or regulation governing or related to EMPLOYEE's practice of dentistry subsequent to termination of this Agreement, EMPLOYER agrees to furnish copies of same thereof at EMPLOYEE's or representative's written request and expense.

Note: The following paragraph contains language specific to the ownership of records in the State of Texas and is included only as an example. Other states may have other statutes or standard practices governing the ownership of dental records.

EMPLOYEE understands that Section 258.051 of the Texas Dental Practice Act Occupations Code may grant to the "dentist performing the dental service" certain ownership rights regarding the charts and records of the patient treated by that dentist. However, EMPLOYEE and EMPLOYER understand and agree that the patients being treated by the EMPLOYEE are the patients of EMPLOYER and the resulting charts and records of such patients are the sole and exclusive property of EMPLOYER in spite of the implications of the *Texas Dental Practice Act*. Therefore in consideration of EMPLOYEE's employment and the consideration paid there from, to the extent permitted by law and applicable rules and regulations, EMPLOYEE hereby gives up, and irrevocably waives, any and all ownership rights, as more specifically defined in the *Texas Dental Practice Act*, that EMPLOYEE may have in the patient, and irrevocably waives any ownership rights in the resulting dental treatment charts and records.

EMPLOYEE further agrees in the event of a termination of this Agreement, as hereinafter provided, to return to EMPLOYER any originals and copies of administrative and technical manuals and documents of EMPLOYER.

10. Disclosure of Information. EMPLOYEE agrees not to, either during the term of this Agreement or at any time thereafter, disclose to any person, firm, or employer, other than to an accountant or attorney in their professional capacities, any information concerning the

business affairs of EMPLOYER that EMPLOYEE may have acquired in the course of, or as incident to, the association with EMPLOYER, unless required to do so by any court of competent jurisdiction, any law, or any rule or regulation governing or related to EMPLOYEE's practice of dentistry. Should EMPLOYEE materially violate the provisions of this Section 10, EMPLOYER shall be entitled to liquidated damages in the amount of _____ Dollars (\$_____) per occurrence, which damages shall be payable to EMPLOYER within _____ (____) days of written notice by EMPLOYER.

11. Solicitation of Employees. EMPLOYEE further covenants to not encourage associates and/or employees of EMPLOYER to terminate the practice of their association with EMPLOYER and further that EMPLOYEE will not employ any of them under any circumstances for a period of at least _____ (____) year following the date of termination of this Agreement or _____ (____) year following the termination of any such associates and/or employees, whichever occurs last. Should EMPLOYEE materially violate the provisions of this Section 11, EMPLOYER shall be entitled to liquidated damages in the amount of _____ Dollars (\$_____) per occurrence, which damages shall be payable to the EMPLOYER within _____ (____) days of written notice by EMPLOYER.

12. Termination. This Agreement may be terminated by either EMPLOYER or EMPLOYEE by giving _____ (____) days prior notice, in writing, to the other party of the date of termination (hereinafter the "TERMINATION DATE"). It is fully understood between the parties hereto that, during such _____ (____) day period, EMPLOYEE will take on no new patients at EMPLOYER's OFFICES, with the exception of emergency cases, but EMPLOYEE will be permitted to continue treatment of patients whose cases are in process or otherwise as determined by EMPLOYER.

EMPLOYER further agrees that in the event EMPLOYER terminates this Agreement, EMPLOYER will immediately waive any and all required minimum hours for EMPLOYEE to be in attendance at EMPLOYER's OFFICE.

After termination of this Agreement, if terminated by lapse of time or otherwise, EMPLOYER agrees to pay to EMPLOYEE all monies that would otherwise be due EMPLOYEE under the terms and conditions as provided in Section 6, less any cost as described in Section 7. In determining the moneys due to EMPLOYEE, an adjustment shall be made for collections received for which services have not been provided at the TERMINATION DATE. Such prepayments will be excluded in the calculation of the moneys due to EMPLOYEE.

During the term of this Agreement and for _____ (____) year(s) after its termination, EMPLOYEE, or agent, shall have access during reasonable times as established by the EMPLOYER to examine EMPLOYER's cash receipt books and patient treatment cards for the sole purpose of determining the proper amount of compensation to which EMPLOYEE is entitled.

13. Noncompetitive Covenant. EMPLOYEE acknowledges that due to the specialized training, confidential information, and personal contacts that the EMPLOYEE will acquire during the course of EMPLOYEE's employment with EMPLOYER, that EMPLOYER would be irrevocably damaged should EMPLOYEE enter into competition with EMPLOYER. Therefore, EMPLOYEE acknowledges that a portion of the compensation that is to be paid hereunder is consideration for agreement of the provisions and covenants contained in this Section 13. The EMPLOYEE agrees that, for a period of _____ (____) year(s) from the TERMINATION DATE, unless terminated by exercise of the Option to Purchase Practice Interest of Section 17, EMPLOYEE, or any corporation, partnership, or other entity in which EMPLOYEE holds an ownership interest shall not engage in the private practice of dentistry within a geographical radius of _____ (____) miles of EMPLOYER's OFFICES located at _____(street address)_____, _____(city)_____, _____(state and zip code)_____. Further,

EMPLOYEE agrees that effective with the execution of this Agreement, for a period of _____ (_____) year(s) from the TERMINATION DATE, EMPLOYEE will not solicit or otherwise contact any patients of EMPLOYER for the purpose of performing dental services on behalf of such patients or to otherwise dissuade such patients from using EMPLOYER for dental services, regardless of the geographical location of EMPLOYER's dental practice; provided that any communication from EMPLOYEE to any patient that is required by any law, rule, or regulation governing EMPLOYEE's practice of dentistry shall not be deemed to be a violation of any provision of this Agreement.

Notwithstanding the preceding portions of this Section 13, EMPLOYEE may, upon the termination of this Agreement and without being in violation of any non-competition restrictions contained herein, solicit or otherwise contact for the purposes of providing dental services, those patients specifically listed from time to time on Exhibit "A," attached hereto and made a part hereof for all purposes. Said Exhibit "A" will be updated periodically by EMPLOYER for the purpose of including those patients, including family members of EMPLOYEE, with whom EMPLOYER recognizes as having had a prior relationship with EMPLOYEE prior to the execution of this Agreement and/or whom EMPLOYER recognizes as having a current special relationship with EMPLOYEE.

EMPLOYEE acknowledges that should EMPLOYEE violate or breach any provisions of the Covenant Not to Compete under this Section 13, EMPLOYER would suffer immediate and irreparable harm, damage, and injury, which could not be precisely measured in monetary terms. Accordingly, due to the uncertainty of the damages actually sustained by EMPLOYER in the event of a violation by EMPLOYEE of the Covenant Not to Compete, EMPLOYER, having first pursued the Arbitration remedy as outlined in Section 39 of this Agreement, shall be entitled to seek and procure specific enforcement of the obligations of this Covenant Not to Compete, by injunction or any other remedy available at law or in equity.

EMPLOYER shall have the right to inspect the patient lists of the EMPLOYEE's competitive practice monthly for a period of _____ (_____) year(s) following the date

EMPLOYEE commenced such competitive activities in violation of the Covenant Not to Compete, such a competitive practice being defined as being within a _____ (____) mile radius of the EMPLOYER's practice and within _____ (____) year(s) of the TERMINATION DATE.

The time, geographical area, and the scope of the restrictions herein contained and the remedies provided hereby are divisible so that if any provision of this Section 13 is invalid, such provision shall be automatically modified to the extent necessary to make it valid. EMPLOYEE agrees that this covenant shall be independent of other terms and conditions of this Agreement, and shall continue for the periods specified herein, regardless of any termination of this Agreement. EMPLOYEE hereby agrees and acknowledges that the restrictions and remedies contained in this Section 13 are reasonable, will not prevent EMPLOYEE from earning a livelihood, will not cause an abandonment of any patient, and are necessary to protect EMPLOYER's legitimate interests.

14. Status of EMPLOYEE Prior to the Exercise of Option to Purchase Practice Interest. Prior to The Exercise of the Option to Purchase Practice Interest as described in Section 17 of this document, it is understood by and between the parties that EMPLOYEE is a common law employee (employee), and not an Independent Contractor, and nothing contained herein shall be construed to establish any partnership of interest. Both EMPLOYER and EMPLOYEE agree to refrain from any actions or statements that would imply, suggest, or in any manner convey a partnership between EMPLOYER and EMPLOYEE in the rendering of dental services or any other business activity at or from EMPLOYER's OFFICES.

15. Buy-out of EMPLOYER's Practice by EMPLOYEE in the Event of Death of EMPLOYER Funded with Life Insurance. In the event of death of EMPLOYER, EMPLOYER's estate, heirs, assigns and legal representatives shall be obliged to sell the practice of EMPLOYER to EMPLOYEE and EMPLOYEE shall be obliged to purchase the practice of

EMPLOYER. EMPLOYER and EMPLOYEE agree to maintain a sufficient amount of life insurance payable to EMPLOYEE in order that such interest could be purchased from the estate of the deceased. The Fair Market Value of EMPLOYER's practice shall be reviewed periodically during the term of this Agreement, in accordance with appraisal standards of the American Society of Appraisers, and any increase in value shall be reflected in a corresponding increase in the respective life insurance benefit. EMPLOYEE further agrees to pay all premiums for such insurance policies either from personal accounts or through the EMPLOYER's accounts with the tax incidence of such premiums to be included in the W-2 of the EMPLOYEE. If such insurance is not in force, then the estate, heirs, assigns, and legal representatives of EMPLOYER would be obliged to accept the Fair Market Valuation of the practice in the form of a Promissory Note, monthly payments of which to be based on a one hundred and twenty (120) month amortization, with a maturity of one hundred and twenty (120) months, and bear an annual fixed interest rate, determined on the Date of Closing, equal to the Prime Rate as quoted in *The Wall Street Journal* plus one percentage (1%) point, and the first payment shall be due one (1) month after the Date of Closing.

16. Buy-out of EMPLOYER's PRACTICE by EMPLOYEE in the Event of Disability of EMPLOYER Funded with Disability Buy-out Insurance. In the event of disability of EMPLOYER, the disabled EMPLOYER and the EMPLOYER's assigns and/or legal representatives shall be obliged to sell the practice of EMPLOYER to EMPLOYEE and EMPLOYEE shall be obliged to purchase the practice of EMPLOYER. The Fair Market Value of EMPLOYER's practice shall be reviewed periodically during the term of this Agreement, in accordance with appraisal standards of the American Society of Appraisers, and any increase in value shall be reflected in a corresponding increase in the respective disability insurance benefit. For purposes of this Agreement, an EMPLOYER shall be deemed disabled if, as a result of sickness, accident. or injury, EMPLOYER (i) becomes unable to perform EMPLOYER's usual and substantial duties for a period of One (1) year and (ii) the benefits under the aforementioned

disability insurance policy become payable as a result of such disability. EMPLOYER and EMPLOYEE agree to maintain a sufficient amount of disability insurance payable to EMPLOYEE in order that such interest could be purchased from the EMPLOYER at Fair Market Value. EMPLOYEE further agrees to pay all premiums for such insurance policies either from EMPLOYEE's own personal accounts or through the EMPLOYER's accounts with the tax incidence of such premiums to be included in the W-2 of the EMPLOYEE. If such insurance is not in force, then the estate, heirs, assigns, and legal representatives of EMPLOYER would be obliged to accept the Fair Market Valuation of the practice in the form of a Promissory Note, monthly payments of which to be based on a one hundred and twenty (120) month amortization, with a maturity of one hundred and twenty (120) months, and bear an annual fixed interest rate, determined on the Date of Closing, equal to the Prime Rate as quoted in *The Wall Street Journal* plus three percentage (3%) points, and the first payment shall be due one (1) month after the Date of Closing.

17. Option to Purchase Practice Interest. The EMPLOYER acknowledges that it is EMPLOYER's desire to sell up to a fifty percent (50%) interest in the EMPLOYER's PRACTICE to the EMPLOYEE. EMPLOYER shall retain the right to refuse to allow EMPLOYEE to buy an interest in the Practice, subject to the terms and conditions below. At the end of twelve (12) months from the execution of this Agreement, EMPLOYEE shall have the right to purchase a Practice interest or Practice interests subject to EMPLOYER's exercise of EMPLOYER's right to refuse such purchase. If EMPLOYER should initially elect to sell EMPLOYEE an interest in the Practice and then should subsequently refuse an exercise of EMPLOYEE's right to purchase, and if the percentage of the Practice owned by EMPLOYEE at the time of such refusal is less than Fifty percent (50%), EMPLOYER shall purchase the Practice interest of EMPLOYEE under the methodology and terms as expressed in Section 30 of this Agreement, if, and only if, EMPLOYEE is willing to abide by the Covenant terms as expressed in Section 30. EMPLOYEE's right to purchase a practice interest from EMPLOYER shall be

determined in accordance with the “Collection Ratio Percentage” as referenced in the following table and definitions continued below:

RATIO OF EMPLOYEE COLLECTIONS TO EMPLOYER COLLECTIONS	INITIAL AND ADDITIONAL PERCENTAGE INTEREST AVAILABLE FOR PURCHASE BY EMPLOYEE
insert applicable %	insert applicable %
insert applicable %	insert applicable %
insert applicable %	insert applicable %
insert applicable %	insert applicable %
100%	insert applicable %

In order to qualify for the initial percentage interest being acquired, the Collection Ratio Percentage shall be based upon an average calculation over no less than a three (3) month period of time prior to the end of one (1) year from the date of creation of this Agreement. Subsequent to such one (1) year initial period, the qualifying Collection Ratio Percentage shall be over any consecutive three (3) month period of time. Subject to EMPLOYER’s exercise of EMPLOYER’s right to refuse purchase of Practice interest, the EMPLOYEE shall be eligible to purchase interests cumulatively in amounts greater than ten percent (10%). Such that the EMPLOYEE might be able to evaluate the merits of such a Practice interest acquisition, and effective with the month following three (3) consecutive months in which the EMPLOYEE has reached the initial qualifying percentage ratio as expressed in the table above, EMPLOYER agrees to provide EMPLOYEE with complete financial statements on EMPLOYER’s PRACTICE, including Balance Sheet and Income Statement for the immediately preceding and future months, with such statements to be provided by the tenth (10th) of the following month.

18. Notification and Method for Determining Purchase Price. Upon attainment of the Collection Ratio Percentage described in the table in Section 17 and upon election in writing delivered by EMPLOYEE to EMPLOYER of EMPLOYEE’s intent to purchase an initial or

additional interest in the Practice, EMPLOYER shall notify EMPLOYEE in writing within thirty (30) days as to whether EMPLOYER should permit EMPLOYEE to purchase the initial or additional Practice interest, and if so, shall deliver to EMPLOYEE all documentation as shall be required by the appraisal firm selected by EMPLOYEE. An appraisal shall be ordered from The Hindley Group, L.L.C. or such other firm that shall be qualified to perform such an appraisal. Such appraisal shall be based upon the date when EMPLOYEE notified EMPLOYER in writing of EMPLOYEE's intent to purchase an initial or additional Practice interest. The appraisal firm shall be specifically instructed that their appraisal calculation shall be of a going concern value and representative of a One Hundred percent (100%) controlling interest with a non-compete agreement. Further, the valuation shall be completed under a definition of Fair Market Value, and not investment value, without consideration given for discount as a result of lack of marketability.

After such appraisal is complete, it shall be compared with the appraisal attached herein as Exhibit "B" and the following adjustments shall be made:

1. If the appraisal price subsequently calculated is less than the appraisal price as calculated on the appraisal attached herein as Exhibit "B," then the "*Gross Purchase Price*" shall be that value as determined on the appraisal attached herein as Exhibit "B."

2. If the newly calculated appraisal price is in excess of the price calculated as of the appraisal attached herein as Exhibit "B," the Gross Purchase Price shall be defined as the total of the appraisal price calculated as of the appraisal attached herein as Exhibit "B" and fifty percent (50%) of the difference between the appraisal as of the date when EMPLOYEE notified EMPLOYER in writing of EMPLOYEE's intent to purchase a practice interest and the appraisal attached herein as Exhibit "B."

It is agreed that the cost of such a Fair Market Appraisal shall be borne by the EMPLOYER. If either EMPLOYER or EMPLOYEE dissents to the appraisal, an additional appraisal may be requested at the dissenting party's sole expense and the two (2) appraisals averaged together to determine the Gross Purchase Price. If a difference in Fair Market Value of an amount greater than ten percent (10%) is the result, a third appraisal may be requested with the results of the three appraisals averaged to determine the Gross Purchase Price. It is understood that the cost of this third appraisal shall be borne equally by both EMPLOYEE and EMPLOYER and that the identity of the appraiser shall be determined by agreement between EMPLOYER and EMPLOYEE.

19. Terms of Payment if Option to Purchase Practice Interest Is Exercised. The Gross Purchase Price having been calculated in Section 18 shall be multiplied by the percentage interest being acquired as determined by the Collection Percentage Ratio in Section 17 of this Agreement. The product of such calculation shall be the "*Purchase Price*" to be paid for such Practice interest being acquired by EMPLOYEE and shall be paid to EMPLOYER at the Date of Closing according to the following terms:

- A. Cash Payment to EMPLOYER.** It is the objective of EMPLOYER that One Hundred percent (100.00%) of the Purchase Price for the percentage interest being acquired as determined in Section 16 of this Agreement be paid by EMPLOYEE to EMPLOYER in the form of a cashier's check at Date of Closing. Further, it is understood that in order for EMPLOYEE to effect such a payment, it will be necessary for EMPLOYER to pledge a One Hundred percent (100.00%) interest in the Practice (not real property) of EMPLOYER to the financial institution providing financing to EMPLOYEE. However, it is also understood that as a result of certain circumstances that may exist in either the economy or the banking environment, such a loan may not be possible. If the latter circumstance is the case, then there shall be no cash required at the Date of Closing.

B. A Promissory Note Payable to EMPLOYER. If financing by EMPLOYER shall be required, then EMPLOYEE shall submit a complete personal financial statement on EMPLOYEE and make provision whereby EMPLOYER shall be able to obtain a complete credit report and lien search on EMPLOYEE. Subsequent to receipt of same, One Hundred percent (100%) of the Purchase Price payable to the EMPLOYER shall be in the form of a promissory note of the EMPLOYEE. The EMPLOYEE's note shall require monthly payments based upon a Eighty-four (84) month amortization, with a maturity of Eighty-four (84) months, and bear an annual fixed interest rate, determined on the Date of Closing, equal to the Prime Rate as quoted in the Wall Street Journal plus One (1) percentage point, and the first payment shall be due one (1) month after Date of Closing. EMPLOYEE shall have the privilege of prepaying all, or any part, of the principal of EMPLOYEE's note at any time thereafter without penalty. EMPLOYER shall be secured by a first lien on the undivided interest being acquired, the voting rights of the EMPLOYEE of which shall not be diminished by such lien position.

It is agreed by EMPLOYER that assumption by EMPLOYEE of any outstanding notes arising from the EMPLOYER's PRACTICE at various lending institutions can be utilized as partial or full satisfaction of the Purchase Price with the outstanding balance of such note to be subtracted from such cash payment as described in Section 19.A. and then the Promissory Note as described in Section 19.B.

20. Creation of PARTNERSHIP between EMPLOYER and EMPLOYEE Subsequent to Exercise of Option to Purchase Practice Interest. It is agreed that coincident with Date of Closing upon Exercise of Option to Purchase Practice Interest, both EMPLOYEE and EMPLOYER will form a Professional Limited Liability Partnership as permitted by the Texas Uniform Partnership Act. The respective interest of the EMPLOYEE and EMPLOYER

(hereinafter referred to as the “*PARTNER(S)*”) in the entity chosen (hereinafter referred to as the “*PARTNERSHIP*”) shall be the same as the respective interest of the EMPLOYEE having been acquired from the EMPLOYER in the EMPLOYER’s PRACTICE.

21. Office Lease. Concurrent with the execution of this Agreement, the PARTNERSHIP and the EMPLOYER shall enter into a _____ (____) year lease for the premises currently occupied by the EMPLOYER, the annual rate for the first (1st) year of which shall not exceed the amount as indicated in the working papers of the Fair Market Appraisal attached herein as Exhibit “B.” Subsequent to the first (1st) year within the _____ (____) year term, the monthly rent shall not increase by an amount greater than the Consumer Price Index (CPI) with 20____ as the base year, plus the amount whereby the charges for the real property taxes and property/casualty insurance shall increase during that year by an amount greater than the Consumer Price Index (CPI) as well as insurance and property tax passthroughs as such costs exceed the 2008 level. Finally, there shall be one (1) _____ (____) year rental option, the terms of which shall be negotiated at the time of renewal and shall be in accordance with fair market rental rates in _____ existing at the time of such negotiation. If such lease cannot be negotiated, and if the rent as established in such new lease is higher than the amount indicated in the working papers of the Fair Market Appraisal attached herein as Exhibit “B,” then the valuation completed as of _____. 20____, shall be adjusted to reflect the increased expense structure of EMPLOYER’s Practice.

22. Division of PARTNERSHIP Income between EMPLOYER and EMPLOYEE Subsequent to Exercise of Option to Purchase Practice Interest. It is understood by both the EMPLOYER and the EMPLOYEE that the terms of the contemplated PARTNERSHIP shall be written so that gross practice revenue of the PARTNERSHIP shall be divided on a monthly basis between both EMPLOYER and EMPLOYEE according to the following method:

STEP (1) Total practice collections attributable to patient treatment for each PARTNER shall be added to those hygiene treatment collections that are attributable to each PARTNER.

Hygiene attribution for each PARTNER shall be determined on a monthly basis and shall be an amount equal to the product of total hygiene collections multiplied by a fraction, the numerator of which is a PARTNER's collections for the month and the denominator of which is total monthly collections by all PARTNERS not including collections received as a result of hygiene.

STEP (2) The practice collections as determined in STEP (1) shall be multiplied by a factor of _____ percent (___%). This calculated amount is defined as "Return To Labor" and shall be included as part of the estimated draws to be paid to each PARTNER on a monthly basis.

STEP (3) Gross Revenues minus Return To Labor and minus Practice Operating Expenses is defined as "Return To Capital." Return to Capital shall be divided according to the percentage ownership of PARTNERSHIP interest.

By way of illustration, let us assume that the EMPLOYEE should acquire a ten percent (10%) Practice interest and further, let us assume that in the immediately subsequent month, One Hundred Thousand Dollars (\$100,000) of collections are generated as a result of treatment provided by both EMPLOYER and EMPLOYEE. It is determined that revenues attributable to hygiene are Twenty Thousand Dollars (\$20,000); revenues attributable to EMPLOYEE are Thirty-two Thousand Dollars (\$32,000); and revenues attributable to EMPLOYER are Forty-eight Thousand Dollars (\$48,000). Thus, with EMPLOYEE producing forty percent (40%) of the total doctor collections and EMPLOYER producing sixty percent (60%) of total doctor collections, hygiene attribution would be Eight Thousand Dollars (\$8,000) and Twelve Thousand Dollars (\$12,000), respectively.

It is assumed that Practice Operating Expenses equal Sixty Thousand (\$60,000). It is also assumed that Return to Labor payments for EMPLOYEE are calculated at thirty percent (30%) of Forty Thousand Dollars (\$40,000) or Twelve Thousand Dollars (\$12,000). Return to Labor payments for EMPLOYER are also calculated at thirty percent (30%) of Sixty Thousand Dollars (\$60,000) or Eighteen Thousand Dollars (\$18,000). After payment of all expenses and Return of

Labor there is left a balance of Ten Thousand Dollars (\$10,000) known as Return to Capital. For the period immediately subsequent to Closing, ten percent (10%) or One Thousand Dollars (\$1,000) would be allocated to EMPLOYEE and ninety percent (90%) or Nine Thousand Dollars (\$9,000) would be allocated to EMPLOYER.

23. Payment of PARTNERSHIP Expenses by EMPLOYER and EMPLOYEE Subsequent to Exercise of Option to Purchase Practice Interest. All PARTNERSHIP expenses will be borne by all PARTNERS under the contemplated PARTNERSHIP Agreement. Expenses of the PARTNERSHIP would include, but are not necessarily limited to, expenses related to equipment, supplies and instruments, personnel, laboratory costs, leasehold usage, scheduling of appointments, processing of patient records, maintenance of patient financial records, billing of patients for services rendered and other administrative duties related to patient care.

Explicitly excluded from PARTNERSHIP expenses shall be all expenses of a personal nature including, but not necessarily limited to, health insurance premiums, personal disability income premiums, pension contributions, automobile, travel, entertainment, continuing education, publication, and personal legal, or personal accounting expenses, unless otherwise agreed to by each PARTNER of the PARTNERSHIP and incorporated into the PARTNERSHIP Agreement.

In order to arrive at an equitable payment of expenses, it is agreed by both PARTNERS that there shall be deducted from the PARTNERS' Return to Capital, as referenced in Section 19, a proportional charge according to the ratio that each PARTNER's specific collections bears to the total gross collections of the PARTNERSHIP. The allocation of PARTNER responsibility for specific expenses shall be determined in the following manner:

STEP (1) The Hindley Group, L.L.C. will assist in the classification of all PARTNERSHIP operating expenses. The Hindley Group, L.L.C. will perform a percentage

calculation so as to determine the total collections of each PARTNER for the prior three (3) month period as a percentage of the total collections of the PARTNERSHIP.

STEP (2) The percentage as derived from the percentage calculation of STEP (1) of this Section 23 will be paid on a quarterly basis by each PARTNER. At the end of each quarter, such quarters to commence on January 1, April 1, July 1, and October 1, total collections attributable to each PARTNER shall be divided by the total collections received by the practice. The percentage thus derived will be averaged with the percentage amount herein referenced to be paid by each PARTNER, the subsequent quotient to be used as the amount of Expenses to be charged to each PARTNER for the ensuing quarter. Thereafter, this calculation will include the two prior quarter's percentages in order to obtain the percentage to be paid by each PARTNER during the ensuing quarter. This calculation thus described will be repeated at the beginning of each quarter to determine the collections for each succeeding quarter as long as the PARTNERSHIP contemplated herein shall be in force. (See Exhibit "___")

24. Accounts Receivable Subsequent to Exercise of Option to Purchase Practice Interest. It is recognized that outstanding accounts receivable at the time of Exercise of Option to Purchase Practice Interest belong to EMPLOYER. An allocation shall be made subsequent to the Date of Closing pursuant to the Exercise of Option to Purchase Practice Interest through the use of a computer software system of the practice such that future accounts receivables shall be owned by the PARTNERSHIP.

25. Business Overhead Expense Coverages Subsequent to Exercise of Option to Purchase Practice Interest. Due to high fixed and continuing expenses contemplated by the PARTNERSHIP, the PARTNERSHIP agrees to maintain both casualty business interruption insurance as well as disability overhead expense coverages on the lives of each PARTNER subsequent to the exercise of Option to Buy.

26. Equal Access to All New and Recall Patients Subsequent to Exercise of Option to Purchase Practice Interest. Subsequent to the sale of a fifty percent (50%) interest in the practice of EMPLOYER, EMPLOYER hereby grants to EMPLOYEE equal access to all new and recall patients. Such an understanding is critical for EMPLOYEE to meet the high and continuing fixed obligations that are contemplated under the herein discussed sale of Practice interest.

27. SELLER Agreement to Maintain Current Schedule after Exercise of Option to Purchase Practice Interest. EMPLOYER realizes full well that in order for EMPLOYEE to meet the high and fixed continuing obligations for the Practice interest being purchased and detailed herein, it is critical that EMPLOYEE be able to develop and sustain an ongoing stream of Return to Capital payments. Further, EMPLOYER understands that such a continuing stream of Return to Capital payments is based upon the maintenance by EMPLOYER of a high volume of collections by EMPLOYER. Thus, EMPLOYER agrees to maintain EMPLOYER's current operative dental schedule until full agreement to any curtailment is agreed to by EMPLOYEE or until there are no outstanding notes owed by EMPLOYEE to EMPLOYER.

28. Buy-out Agreement Funded with Life Insurance in the Event of Death of a PARTNER Subsequent to Exercise of Option to Purchase Practice Interest. Provisions shall be made in the PARTNERSHIP Agreement so that, in the event of death of either PARTNER, the estate, heirs, assigns, and legal representatives shall be obliged to sell the PARTNERSHIP interest of the deceased PARTNER to the surviving PARTNER. Each PARTNER agrees to maintain a sufficient amount of life insurance, payable to the other PARTNER, in order that the interest of the deceased PARTNER could be purchased from the estate of the deceased. The Fair Market Value of such PARTNERSHIP shall be reviewed periodically in accordance with appraisal standards of the American Society of Appraisers, and any increase in value shall be reflected in a corresponding increase in the respective life insurance benefit. Premiums for such

insurance policies shall be paid from the PARTNERSHIP accounts of the PARTNERSHIP, the tax incidence of such premiums to be included as income to the owner of each policy. If such insurance is not in force, then the estate, heirs, assigns, and legal representatives of deceased PARTNER would be obliged to accept the Fair Market Valuation of the practice in the form of a Promissory Note, monthly payments of which to be based on a one hundred and twenty (120) month amortization, with a maturity of one hundred and twenty (120) months, and bear an annual fixed interest rate, determined on the Date of Closing, equal to the Prime Rate as quoted in *The Wall Street Journal* plus three percentage (3%) points, and the first payment shall be due one (1) month after the Date of Closing.

29. Buy-out Agreement Funded with Disability Income Insurance in the Event of Disability of a PARTNER Subsequent to Exercise of Option to Purchase Practice.

Provisions shall be made to the PARTNERSHIP Agreement so that, in the event of disability of either PARTNER, the disabled party, the disabled party's assigns and/or legal representatives shall be obliged to sell the PARTNERSHIP interest to the non-disabled PARTNER. Each PARTNER agrees to maintain a sufficient amount of disability insurance, payable to his/her PARTNER, such that the PARTNERSHIP interest could be purchased from the disabled PARTNER. The Fair Market Value of such PARTNERSHIP interest shall be reviewed periodically, in accordance with appraisal standards of the American Society of Appraisers, and any increase in value shall be reflected in a corresponding increase in the respective disability insurance benefit. Premiums for such insurance policies shall be paid from the PARTNERSHIP accounts of the PARTNERSHIP, the tax incidence of such premiums to be included in the income of the owner of each policy. If such insurance is not in force, then the disabled party or the disabled party's assigns and/or legal representatives would be obliged to accept the Fair Market Valuation of the practice in the form of a Promissory Note, monthly payments of which to be based on a one hundred and twenty (120) month amortization, with a maturity of one hundred and twenty (120) months, and bear an annual fixed interest rate, determined on the Date

of Closing, equal to the Prime Rate as quoted in *The Wall Street Journal* plus three percentage (3%) points, and the first payment shall be due one (1) month after the Date of Closing.

30. Repurchase of Interest. Provisions shall be made to the PARTNERSHIP Agreement that during that period when EMPLOYEE's PARTNERSHIP interest shall be less than fifty percent (50%), if either party desired to terminate their relationship as PARTNERS, then the EMPLOYEE's PARTNERSHIP interest shall be purchased by EMPLOYER according to the following terms and conditions that shall only be applicable upon such repurchase:

1. A Fair Market Appraisal of the practice shall be ordered from The Hindley Group, L.L.C. or such other firm that shall be qualified to perform such an appraisal. Such appraisal shall be reflective of the proposed effective "Date of Repurchase." The appraisal firm shall be specifically instructed that their appraisal calculation shall be of a going concern value and representative of a One Hundred percent (100%) controlling interest with a non-compete agreement. Further, the valuation shall be completed under a definition of Fair Market Value, and not investment value, without consideration given for discount as a result of lack of marketability.

It is agreed that the cost of such a Fair Market Appraisal shall be borne by the PARTNERSHIP. If either party dissents to the appraisal, an additional appraisal may be requested at the dissenting party's sole expense and the two (2) appraisals averaged to determine the Fair Market Value. If a difference in Fair Market Value of an amount greater than ten percent (10%) is the result, a third appraisal may be requested with the results of the three appraisals averaged to determine the Gross Purchase Price. It is understood that the cost of this third appraisal shall be borne equally by both EMPLOYEE and EMPLOYER and that the identity of the appraiser shall be determined by agreement between the first two appraisers.

If the reason for repurchase was a result of one of the following events, then the Purchase Price shall be the product of the percentage interest owned by EMPLOYEE as multiplied by the determined Fair Market Value and then subsequently multiplied by One hundred and ten percent

(110%): (i) failure on the part of EMPLOYER to sell additional practice interest pursuant to Section 17; (ii) the Partnership termination as a result of a request by EMPLOYER; or (iii) termination of the PARTNERSHIP by either EMPLOYER or EMPLOYEE within two (2) years of the date of the initial Partnership Agreement. If EMPLOYEE requests a repurchase two (2) years after the date of the Partnership Agreement, then the Purchase Price shall be the product of the percentage interest owned by EMPLOYER as multiplied by the determined Fair Market Value and then subsequently multiplied by one hundred percent (100%).

2. The terms of payment of such repurchase option are as follows:

A. Payment at Time of Closing. One Hundred percent (100%) of the Purchase Price of the equity interest owned by EMPLOYEE as determined in STEP 1 in this Section 30 in the form of a Cashier's check at Date of Closing. "Equity" shall be defined as the Purchase Price of the interest owned by EMPLOYEE less any obligation due EMPLOYER as of the Date of Repurchase.

B. Forgiveness of Promissory Notes Payable to EMPLOYER. One Hundred percent (100%) of the outstanding Promissory Notes due EMPLOYER as a result of a prior purchase shall be forgiven coincident with the Date of Repurchase and transfer of the PARTNERSHIP interests owned by EMPLOYEE.

3. It is understood that the EMPLOYEE will Covenant Not to Compete with EMPLOYER within a _____ (____) mile radius of the EMPLOYER's Practice for a period of _____ (____) years from the Date of Repurchase. Should EMPLOYEE violate the Covenant Not to Compete, EMPLOYEE shall pay to EMPLOYER the following as liquidated damages:

During the first twelve (12) months after Closing, the sum of eighty-five percent (85%) of the Purchase Price as determined herein.

During the second twelve (12) months after Closing, the sum of sixty-five percent (65%) of the Purchase Price as determined herein.

During the third twelve (12) months after Closing, the sum of forty-five percent (45%) of the Purchase Price as determined herein.

31. Right of First Refusal - Bona Fide Offers. Provisions shall be made in the PARTNERSHIP Agreement that if during the term of this contemplated PARTNERSHIP a PARTNER, (i) receives from a third party and desires to sell under a bona fide offer to purchase any or all of their respective interests in the PARTNERSHIP, or (ii) a PARTNER desires to make a bona fide offer to sell any or all of such PARTNER's interest in the PARTNERSHIP to a third party, or (iii) a PARTNER desires to sell such PARTNERSHIP interest to the PARTNERSHIP or (iv) a PARTNER desires to sell any or all of such PARTNER's interest in the PARTNERSHIP to the remaining PARTNER(S), such PARTNER, (hereinafter for this Section referred to as the "Selling Partner(s)"), shall give notice in writing (herein called a "Notice of Offer") of such offer to the other PARTNERS (hereinafter for this Section referred to as the "Purchasing Partner(s)"). Such Notice of Offer shall include a copy of the offer setting out accurately and in detail the price and terms of the proposed sale, and, in the case of a third party offeror, the name of the offeror.

The Purchasing Partner shall have a Right of First Refusal to purchase the Selling Partner's PARTNERSHIP interest at the lesser of (a) the price determined in Section 18 and on the terms as determined in Section 19 or (b) at the value and on upon the terms specified in the Notice of Offer. The purchase price and terms are to be determined at the sole discretion of the Purchasing Partner and for purposes of this Section shall be known as the "Purchase Price." Such Right of First Refusal may be exercised by the Purchasing Partner by giving of written notice of exercise thereof to the Selling Partner within thirty (30) days of receipt by Purchasing Partner of the Notice of Offer.

Selling Partner agrees that concurrent with the closing of Purchasing Partner's purchase pursuant to exercise of this Right of First Refusal, Selling Partner will enter into a Covenant Not to Compete with the Purchasing Partner that shall be within a geographical radius of _____ (____) miles of the Purchasing Partner's offices located at _____(street address)_____, _____(city)_____, _____(state and zip code)_____, for a period of _____ (____) years from the

Date of Closing. Should Selling Partner violate the Covenant Not to Compete, the Selling Partner shall pay to the Purchasing Partner the following as liquidated damages:

During the first twelve (12) months after Closing, the sum of eighty-five percent (85%) of the Purchase Price as determined herein.

During the second twelve (12) months after Closing, the sum of sixty-five percent (65%) of the Purchase Price as determined herein.

During the third twelve (12) months after Closing, the sum of forty-five percent (45%) of the Purchase Price as determined herein.

In the event the Purchasing Partner does not exercise such right within thirty (30) days of receipt of the Notice of Offer, Selling Partner shall have the right, at any time within sixty (60) days after expiration of such thirty (30) day option period, to sell and convey the Partnership interest to such third party for the price and on the terms specified in the Notice of Offer. Upon consummation of such sale, the third party shall succeed to the rights of the Selling Partner hereunder, and the terms and provisions of this Agreement shall continue in full force and effect, provided, however, that any subsequent sale to the same purchaser or to a different purchaser for a different price or on different terms must again be submitted to Purchasing Partner in a Notice of Offer as required hereinabove, and provided that the third party shall arrange for appropriate registration papers to be filed with the Secretary of State for the Limited Liability Partnership.

In the event Purchasing Partner shall exercise the right to purchase provided for herein, the sale and purchase shall be concluded within a reasonable time after exercise of such right and, in any event, within ninety (90) days thereafter.

Without in any way limiting the above provisions, Purchasing Partner agrees to promptly execute and deliver to Selling Partner a waiver of Purchasing Partner's rights to purchase as set out in this Section 31, in the event Purchasing Partner fails to timely exercise the Right of First Refusal to purchase hereunder.

32. Future Encumbrance of Assets. EMPLOYEE recognizes that until EMPLOYEE, in fact, owns a fifty percent (50%) interest in the PARTNERSHIP herein referenced that EMPLOYEE is a minority interest owner in the PRACTICE. EMPLOYEE recognizes that EMPLOYER shall have majority control and voting authority to make all PRACTICE and PARTNERSHIP decisions with the exception of the following:

- A. Encumbrance or financing of practice assets.
- B. Sale or transfer of practice assets.
- C. Disposition of practice assets as a result of bankruptcy or financial reorganization.

33. Notice. Any notice required to be given pursuant to the terms of this Agreement shall be in writing. The notice shall be deemed given on the date sent, postage prepaid, by registered or certified mail. Notice will be sent as follows:

TO EMPLOYER:

TO EMPLOYEE:

or as otherwise directed by each party.

34. Indemnity Agreement. EMPLOYEE shall indemnify and hold EMPLOYER and the property of the EMPLOYER free and harmless from any and all claims, losses, damages, injuries, and liabilities arising from, or on account of, acts by EMPLOYEE in the operation of

EMPLOYEE's practice of dentistry. Further, EMPLOYER shall indemnify and hold EMPLOYEE and the property of the EMPLOYEE free and harmless from any and all claims, losses, damages, injuries, and liabilities arising from, or on account of, acts by EMPLOYER in the operation of EMPLOYER's practice of dentistry.

35. Non-Waiver. No failure or delay on the part of EMPLOYER or EMPLOYEE in exercising any power or right within this Agreement shall operate as a waiver of such power or right. Further, no single or partial exercise of any power or right within this Agreement shall preclude other or further exercise of that power or right or any other power or right. No waiver shall be enforceable unless such waiver shall be in writing and signed by the party granting such waiver and shall be limited solely to that one event.

36. Survival. All rights, responsibilities, obligations, representations, and covenants of both EMPLOYER and EMPLOYEE as contained in this Agreement shall survive its termination, either in due course as expressed in Section 2 or by notice in Section 12, and shall continue to remain in full force and effect following such termination.

37. Contract Binding. This Agreement contains all the terms and conditions agreed to by the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

38. Enforcement of Agreement. This Agreement shall be interpreted and enforced in accordance with the laws of the State of _____. In the event that any provision of this Agreement is held to be invalid, such invalidity shall not impair the validity of any other provision hereof. If any provision or provisions of this Agreement are determined to be unenforceable by a court of competent jurisdiction, such provision or provisions shall be deemed

severable and this Agreement may be enforced with such provisions severed or as modified by such court.

The rights, title, and interests referenced or created by this Agreement as those of EMPLOYER are without limitation joint and severable to EMPLOYER.

Section 39. Arbitration. If any dispute, controversy or claim arises out of, or relates to, this contract, or the breach, termination, or validity thereof, the parties agree first to try in good faith to settle the dispute by mediation with the American Arbitration Association. If the parties are unsuccessful in their good faith attempt to mediate the dispute, then the dispute will be determined by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Arbitration shall take place in _____(city)_____, ____(state)___ and the number of arbitrators shall be one (1). The decision of the arbitrator shall be final and may be reduced to judgment in any court having subject matter jurisdiction in _____County. This Section 39 shall not apply to injunctive relief or relief sought in the form of specific performance that may be sought in the appropriate court with subject matter jurisdiction without any mediation or arbitration beforehand.

40. Assignability. The rights and obligations of EMPLOYER under this Agreement shall inure to the benefit of, and shall be binding upon, the successors and assigns of EMPLOYER. EMPLOYEE may not assign or delegate any of EMPLOYEE's rights or obligations hereunder without first obtaining the written consent of EMPLOYER.

41. Counterpart Signatures. This Contract may be executed in multiple counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have set their hands and signatures on this the _____ day of _____, 20____ to be effective as of the day and year first above written.

EMPLOYER:

Name

EMPLOYEE:

Name

EXHIBIT “A”

PATIENTS EXCLUDED
FROM THE NON-COMPETITION AGREEMENT
OF SECTION 13

EXHIBIT “B”

FAIR MARKET VALUE
OF THE DENTAL PRACTICE OF

_____, D.D.S.

AS OF _____, 20____

STATE OF _____ §

COUNTY OF _____ §

On this _____ day of _____ 20____, before me a Notary Public, personally appeared _____, **D.D.S.**, Individually, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

NOTARY PUBLIC in and for

The State of _____

My Commission Expires:

STATE OF _____ §

COUNTY OF _____ §

On this _____ day of _____ 20____, before me a Notary Public, personally appeared _____, **D.D.S.**, to me known to be the person described in and who executed the foregoing instrument on behalf of _____, D.D.S., INC., a ____ (state) ____ corporation, and acknowledged that he/she executed the same as his/her free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

NOTARY PUBLIC in and for

The State of _____

My Commission Expires:

STATE OF _____ §

COUNTY OF _____ §

On this _____ day of _____ 20____, before me a Notary Public, personally appeared _____, **D.D.S.**, Individually, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

NOTARY PUBLIC in and for

The State of _____

My Commission Expires:
