

STATE OF _____ §

COUNTY OF _____ §

PROFESSIONAL PARTNERSHIP AGREEMENT

THIS AGREEMENT, made and entered into effect this ____ day of _____, 20__ (the “Effective Date”), by and between JOHN A. SMITH, D.D.S. (“SMITH”), and THOMAS L. BROWN, D.D.S. (“BROWN”) (SMITH and BROWN are hereinafter collectively referred to as the “Partners”) and (wife of Smith), Individually, and (wife of Brown), Individually, each consenting to certain aspects of this Agreement.

WHEREAS, SMITH and BROWN have been and are now engaged in the practice of dentistry and are licensed and qualified to practice the profession of dentistry in the state of Texas; and

WHEREAS, SMITH, pursuant to a Contract of Purchase and Sale of even date herewith, has sold to BROWN an undivided _____ (___%) interest in and to the assets that formerly comprised SMITH’s practice of dentistry; and

WHEREAS, the intent of SMITH and BROWN in consummating the sale and purchase of such assets was that a partnership for the practice of dentistry be formed; and

WHEREAS, subsequent to the herein referenced merger, SMITH will own a _____percent (___%) majority Partnership interest and BROWN will own a _____percent (___%) minority Partnership interest; and

WHEREAS, in agreeing to the terms of such a partnership, BROWN realizes full well that he is a minority Partner in said Partnership; and

WHEREAS, in agreeing to the formation of the Partnership, provision is made whereby BROWN would have the option to purchase up to a fifty percent (50%) interest in the Partnership as his total office treatment revenue approaches treatment revenue generated by SMITH; and

WHEREAS, the Partners now desire to formalize in written form the organization of a Limited Liability Partnership for the practice of dentistry effective _____, 20__;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, conditions, and agreements hereinafter set forth, the Partners hereby agree as follows:

A. GENERAL PROVISIONS.

1. Name. The Partners to this Agreement hereby form a limited liability partnership under the Texas Revised Partnership Act, Article 6132b of the Revised Civil Statutes of the State of Texas (the “Act”) for the practice of dentistry to be known as THE SMITH BROWN, L.L.P. (the “Partnership”).

2. Registered Limited Liability Partnership. The Partners agree that the Partnership and the Partners shall take all steps necessary to ensure that at all times the Partnership is a Registered Limited Liability Partnership as permitted by the Act.

3. Purpose. The principal purpose of the Partnership is to engage in the practice of dentistry. The Partnership shall not engage in any other business or operation without the unanimous written approval of the Partners.

4. Employment/Partnership Income. Upon the Effective Date, SMITH and BROWN (i) will become employees of the Partnership, (ii) as employees, assign to the Partnership any and all rights to payment from patients or other third parties for professional services rendered by them, and (iii) as employees, will be compensated according the methodology as describe in Section E. The Partners hereby agree that all payments for the provision of professional services rendered by SMITH or BROWN from patients or any third party to either Partner or to employees of the Partnership constitute gross income of the Partnership, and shall be immediately deposited into the banking accounts of the Partnership.

5. Duty of Loyalty.

- a. The Partners, SMITH and BROWN, agree that, as of the Effective Date, SMITH and BROWN will provide professional services exclusively to the Partnership. The Partners, without the prior written consent of all Partners, will not engage in any assignment within the dental profession that might require either SMITH or BROWN to devote less than their full professional time to the business of the Partnership.
- b. The Partners agree not to, either during the term of this Agreement or at any time thereafter, disclose to any person, firm, or employer, other than to their spouse or to his/her accountant, attorney, or office personnel in their professional or employment capacities, any information concerning the business affairs of the Partnership which they may have acquired in the course of, or incident to, their association with the Partnership, unless required to do so by any court of competent jurisdiction, any law, or any rule or regulation governing or related to the practice of dentistry.

6. Offices. The Partnership will maintain its professional offices and principal place of business at _____ (address) _____. Additional offices may be maintained at other locations if this would promote the efficiency of the practice.

7. Duration. The Partnership shall commence operations on the Effective Date, and will continue until _____, 20____, unless terminated sooner in accordance with Sections F, G, H, or I of this Agreement.

8. Assignment. Except as otherwise provided in this Agreement, no Partner shall sell, assign, pledge, or mortgage his/her interest in the Partnership, or any part thereof, without the written consent of the other Partner.

9. New Partners. Additional Partners may be added to the Partnership only by the unanimous written agreement of the Partners. The new Partner shall be subject to this Agreement as modified at the time of admission. The new Partner's admission shall be evidenced by an Amendment to this Agreement that states (i) the effective date of the Amendment, (ii) any modifications or Amendments to this Agreement, and (iii) any other provisions that may be appropriate to integrate the new Partner into the scheme of this Agreement.

10. Amendment of Partnership Agreement. The procedure for amending this Partnership Agreement is by unanimous written consent of all Partners.

11. Limits of Partnership. The relationship of the parties hereto shall be limited to the carrying on of the business of the Partnership in accordance with the terms of this Agreement. Such relationship shall be construed and deemed to be a Limited Liability Partnership for the sole and limited purpose of carrying on such business. Except as otherwise provided for or contemplated in this Agreement, nothing herein shall be construed to create any other partnership between the Partners or to authorize any Partner to act as general agent for the other Partners.

12. No Individual Authority. No Partner, acting alone, shall have any authority to act for, or to undertake or assume any obligation, debt, duty, or responsibility on behalf of, any other Partner or the Partnership except as expressly otherwise provided in this Agreement.

B. CONTRIBUTIONS TO CAPITAL

1. Capital Contributions. Contemporaneously with the execution hereof, SMITH and BROWN shall contribute to the capital of the Partnership those items at the agreed Fair Market Values as set forth opposite their respective names on Exhibit "B" attached hereto. The Partnership shall not assume any liability or obligation resulting from such contributed items, except as provided on Exhibit "B."

2. Additional Contributions. Additional capital contributions may be required of the Partners only by the unanimous written agreement of all Partners.

3. Capital Accounts. The Partnership shall establish and maintain a capital account (“Capital Account”) for each Partner in accordance with Section 704 of the Internal Revenue Code of 1986, as amended, (the “Code”) and Treasury Regulations Section 1.704-1(b)(2)(iv). Except as otherwise provided in this Agreement, the Capital Account balance of each Partner shall be credited (increased) by (i) the amount of cash contributed by such Partner to the capital of the Partnership, (ii) the Fair Market Value of property contributed by such Partner to the capital of the Partnership (net of liabilities secured by such property that the Partnership assumes or takes subject to), and (iii) such Partner’s allocable share of Partnership income and gain (or items thereof) including income and gain exempt from federal taxation. The Capital Account balance of each Partner shall be debited (decreased) by (i) the amount of cash distributed to such Partner, (ii) the Fair Market Value of property distributed to such Partner (net of liabilities secured by such property which the Partner assumes or takes subject to), and (iii) such Partner’s share of Partnership losses, depreciation, and other deductions, including such Partner’s share of expenditures of the Partnership described in Section 705(a)(2)(B) of the Code. A Partner’s Capital Account shall be adjusted to reflect gain or loss attributable to the disposition of property contributed by such Partner to the extent such Partner’s Capital Account reflected such inherent gain or loss in the property on the date of its contribution to the Partnership. A Partner’s Capital Account shall be adjusted to reflect gain or loss attributable to the disposition of property to the extent that such Partner has been specially allocated depreciation, amortization, or other deduction with respect to such contributed property.

4. Other Matters Relating to Capital Contributions.

- a. Loans by any Partner to the Partnership shall not be considered contributions to the capital of the Partnership.
- b. No Partner shall be required to make additional contributions to the Partnership.
- c. No Partner shall be entitled to withdraw, or to obtain return of, any part of his/her contribution to the Partnership or to receive property or assets other than in return thereof, and no Partner shall be liable to any other Partner for return of its contribution to the capital of the Partnership except as provided in this Agreement.
- d. No Partner shall be entitled to priority over any other Partner either with respect to a return of its contributions to the capital of the Partnership or to allocations of taxable income, gains, losses or credits, or to distributions, except as provided in this Agreement.

- e. No interest shall be paid to any Partner on any contributions to the capital of the Partnership.

5. Qualified Income Offset. In the event that, at the end of any partnership taxable year, any Partner's capital account is adjusted for, or such Partner is allocated, or there is distributed to such Partner, any item described in Treasury Regulations § 1.704-1(b)(2)(ii)(d)(4), (5), or (6) in an amount not reasonably expected at the end of such year, and such treatment creates a deficit balance in that Partner's Capital Account, then such Partner shall be allocated all items of income and gain of the Partnership for such year and for all subsequent taxable years of the Partnership until such deficit balance has been eliminated.

C. PARTNERSHIP MANAGEMENT

1. Majority Vote. Partnership decisions shall be made by a majority vote of the interests in the Partnership unless otherwise specified. The following activities shall require written approval of one hundred percent (100%) of the interests in the Partnership:

- a. Sale or transfer of practice assets;
- b. Purchase or sale of real estate;
- c. Incurrence of any obligation in the Partnership name, including a surety or guaranty, not in the ordinary course of business, or in an amount greater than Three Thousand and 00/100 Dollars (\$3,000.00), or encumbrance of any Partnership assets;
- d. Disposition of practice assets as a result of bankruptcy of any Partner in the Partnership or of the Partnership itself;
- e. Execution of a lease;
- f. Incurrence of a continuing business expense that will exceed Three Thousand and no/100 Dollars (\$3,000.00); and/or
- g. Confess a judgment.

2. Proxy Vote. A Partner may express his/her voting interests by written proxy.

D. ACCOUNTING AND TAX MATTERS.

1. Bank Accounts. The Partnership's bank accounts shall be maintained at banks selected by the Partners. All Partnership receipts shall be deposited in accounts with such banks, and all Partnership expenses will be paid from these accounts.

2. Required Signatures. SMITH and BROWN are hereby authorized to individually sign Partnership checks up to Three Thousand and no/100 Dollars (\$3,000.00). Further, any and all checks to SMITH or BROWN or drawn for more than Three Thousand and no/100 Dollars (\$3,000.00) shall require the signatures of both SMITH and BROWN.

3. Calendar Year. The Partnership shall operate on a calendar fiscal year, such year to commence on January 1 and conclude on December 31. Partnership reporting information shall be provided to each Partner by the first (1st) day of January of the year following the fiscal year just completed. It shall not be required that such report be audited by a Certified Public Accountant.

4. Inspection. Books of account, correspondence, papers, and other documents will be kept at the Partnership's place of business as specified in Paragraph 6 of Section A of this Agreement, and at all time will be open to examination by all Partners.

5. Tax Matters Partner. SMITH is the "tax matters partner" within the meaning of Code Section 6231(a)(7). Said tax matters partner shall be responsible for notifying other Partners relating to correspondence or other dealings with the Internal Revenue Service.

6. Basis Election. The Partnership may, after conferring with its accounting firm, elect Code Section 754 treatment.

7. Organizational Expenses. The Partnership shall elect to amortize organizational expenses over a period of seven (7) years.

8. Actions for Partition. Except as herein expressly provided, each Partner irrevocably waives, during the term of the Partnership, any right that he may have to maintain an action for partition with respect to any of the assets of the Partnership.

9. Monthly Financial Statements. The Partnership shall prepare and distribute to both Partners a monthly statement of income and expense by the tenth (10th) day of the month following the month to which the income and expense relates.

E. ALLOCATIONS AND DISTRIBUTIONS.

1. Allocations. Except as otherwise expressly provided herein or as may be required by Section 704(c) of the Code and Treasury Regulation § 1.704-1(b)(2)(iv)(f)(4), all items of income, gain, loss, deduction, and credit of the Partnership shall be allocated to each Partner in accordance with each Partner's percentage Partnership interest, as set forth in Exhibit "A."

2. Monthly Draw. Unless and until modified by the unanimous written consent of the Partners SMITH, as an employee, will be entitled to a monthly draw against Return to Labor [as defined in Section E-3 below] of \$_____, and BROWN, as an employee, will be entitled to a monthly draw of \$_____.

3. Allocation of Partnership Income. It is understood that gross practice revenue of the Partnership shall be divided on a monthly basis between the Partners according to the following method:

STEP (1) As determined under the accounting system then used by the Partnership, the total practice collections attributable to patient treatment for each Partner shall be added to any hygiene treatment collections that are attributable to each Partner. Such hygiene attribution shall be determined on a formula basis with the numerator being the actual collections for the respective Partner and the denominator being the total of all collections for the individual doctors. For purposes of this agreement, "production" shall be defined as fees charged and recorded in the books and records of the Partnership as a result of treatment provided by either Partner or employees of the Practice. Production is an accrual-based accounting concept giving rise to Partnership accounts receivable, whereas "collections" is a cash-based accounting system and results from actual gross Partnership revenues received and deposited to the accounts of the Partnership.

STEP (2) The practice collections as determined in Step (1) shall be multiplied by a factor of Thirty percent (30%). This calculated amount shall be known as Return to Labor and shall be paid to each Partner on a monthly basis.

STEP (3) Gross Revenues minus Return to Labor and minus all practice operating expenses allocated, as outlined in Paragraph 4 of this Section E, shall be known as Return to Capital. Return to Capital shall be divided between the Partners according to their percentage ownership in the Partnership and payable on a monthly basis. For the period immediately subsequent to the Effective Date, such Return to Capital shall be divided as Sixty-five percent (65 %) to SMITH and Thirty-five percent (35 %) to BROWN. [Note: percentages based on partnership interest owned, which are defined in the preamble.]

By way of illustration, let us assume that, in a given month, One Hundred Fifty Thousand Dollars (\$150,000) of collections are generated. It is determined that

revenues attributable to hygiene are Thirty Thousand Dollars (\$30,000); revenues attributable to BROWN are Forty Thousand Dollars (\$40,000); and revenues attributable to SMITH are Eighty Thousand Dollars (\$80,000). Thus, hygiene shall be attributed as Ten Thousand Dollars (\$10,000) to BROWN. Hygiene shall be attributed as Twenty Thousand Dollars (\$20,000) to SMITH.

Further, it is assumed that in a given month total operating expenses are Seventy-Five Thousand Dollars (\$75,000). Return to Labor payments for BROWN are calculated at Thirty percent (30 %) of Fifty Thousand Dollars (\$50,000) or Fifteen Thousand Dollars (\$15,000). Return to Labor payments for SMITH are calculated at Thirty percent (30 %) of One Hundred Thousand Dollars (\$100,000) or Thirty Thousand Dollars (\$30,000). After payment of all expenses and payment of Return to Labor to BROWN and other doctors, there is left a balance of Thirty Thousand Dollars (\$30,000) known as Return to Capital. For the period immediately subsequent to Effective Date, Thirty-five percent (35%) of Thirty Thousand Dollars (\$30,000), or Ten Thousand Five Hundred Dollars (\$10,500), would be payable to BROWN and Sixty-five percent (65%) of Thirty Thousand Dollars (\$30,000), or Nineteen Thousand Five Hundred Dollars (\$19,500), would be payable to SMITH.

4. Allocation of Partnership Expenses. Expenses of the Partnership include, but are not necessarily limited to, expenses related to equipment, insurance, supplies and instruments, 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 and legal and accounting fees.

Specifically excluded from Partnership expenses shall be all expenses of a personal nature, including, but not necessarily limited to, personal disability income provisions, automobile, travel, non-business entertainment, continuing education, publications, and personal legal or personal accounting expenses, unless otherwise agreed to by the Partners of the Partnership. These personal expenses shall be charged to the respective Partner for whom the expense was incurred.

On a quarterly basis, all PARTNERSHIP operating expenses shall be allocated to each Partner and deducted from each Partner's Return to Capital as referenced in Paragraph 3 of this Section E in the same proportion that each respective Partner's collections, bears to the total gross collections of the PARTNERSHIP. The allocation of PARTNERSHIP expense shall be determined in the following manner as illustrated in Exhibit "C" – Allocation of Partner Expenses Worksheet:

STEP (1) For each quarter, such quarters to commence on January 1, April 1, July 1, and October 1, a "Percentage of PARTNERSHIP Collections" (PCC) shall be calculated by dividing each Partner's quarterly collections by the total PARTNERSHIP Collections for that same quarter.

STEP (2) For each quarter, a “Rolling Average PCC” for the previous two (2) quarters shall be calculated by adding each of the two (2) previous quarters’ “PCC” (from STEP (1)) together and dividing by 2.

STEP (3) For each quarter, the quarter’s “Rolling Average PCC” (STEP (2)) is subtracted from the quarter’s “PCC” (STEP (1)) to derive a “PCC Differential.”

STEP (4) For each quarter, the total quarterly expenses are multiplied by each Partner’s “PCC Differential” (STEP (3)) to calculate each Partner’s “PARTNERSHIP Equalization” amount for the quarter.

STEP (5) “PARTNERSHIP Equalization” amounts will be accounted for as follows:

Negative PARTNERSHIP Equalization amounts will be accounted for by first reducing the Partner’s Return to Capital distribution, and if required, reducing the Partner’s Return to Labor distribution.

Positive PARTNERSHIP Equalization will result in an increase first to the Partner’s Return to Labor Distribution, but not to exceed 30% of the Partner’s quarterly collections. Any excess would be added to the Partner’s Return to Capital distribution for the quarter.

F. RESTRICTION ON TRANSFER OF PARTNERSHIP INTEREST.

1. Prohibition against Transfer. No Partner may sell, assign, transfer, encumber, or otherwise dispose of any interest, or any part thereof, in the Partnership without the prior written consent of the other Partner, and shall not pass title to said interests in the absence of such consent, and any such prohibited transfer, if made, shall be void and without force or effect.

2. Divorce or Death of Spouse. In the event any Partnership interest is community property, then (1) upon the death of the spouse of SMITH or BROWN, or (2) upon a final, non-appealable decree of divorce of SMITH or BROWN from his/her spouse, the spouse as evidenced by the signature below, grants to the Partner or owner of the Partner (hereinafter for this Section referred to as “Purchasing Partner”) the first option to purchase the community interest in the Partnership of the deceased or divorced spouse. The price, terms, and conditions shall be in accordance with Paragraphs 3 and 4 of this Section F. If the Partnership consists of more than two partners, then the remaining Partners shall have the second option to purchase the community, or separate property interests in the Partnership of the deceased or divorced spouse, in percentages equal to their individual interests in the Partnership. Each of the signatories to this Agreement hereby acknowledges that he/she has fully read this Agreement, understands same, and has had the opportunity to seek independent counsel. The respective spouses

specifically bind their heirs, beneficiaries, estates, and personal representatives to this provision.

The Purchasing Partner shall have ninety (90) days from the date of the appointment and qualification of the Administrator or Executor of the estate of his/her deceased spouse or ninety (90) days from the date of the entry of a final, non-appealable divorce decree between the Purchasing Partner and his/her spouse within which to exercise the option.

Should the Purchasing Partner fail to exercise his/her option, the remaining Partners shall have the option to purchase the Partnership interest of the deceased or divorced spouse. The price, terms, and conditions shall be in accordance with Paragraphs 5, 6, and 7 of this Section F. Each of the signatories to this Agreement hereby acknowledges that he/she has fully read this Agreement, understands same, and has had the opportunity to seek independent counsel.

3. Right of First Refusal - Bona Fide Offers. If during the term of this Partnership a Partner (i) receives from a third party and desires to sell under a bona fide offer to purchase any or all of the Partner's interests in the Partnership, or (ii) a Partner desires to make a bona fide offer to sell any or all of his/her interest in the Partnership to a third party, or (iii) a Partner desires to sell his/her Partnership interest to the Partnership or (iv) a Partner desires to sell any or all of his/her interest in the Partnership to a Partner, such Partner, (hereinafter for this Section referred to as the "Selling Partner(s)"), will give notice in writing (herein call a "Notice of Offer") of such offer to the other Partner(s) (hereinafter for this Section referred to as the "Purchasing Partner(s)"). Such Notice of Offer shall include a copy of such 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 either (a) the price determined in Paragraph 5 of this Section F and on the terms as expressed in Paragraph 6 and 7 of this Section F or (b) at the value and on upon the terms specified in the Notice of Offer. The choice of purchase price and terms are to be determined at the sole discretion of the Purchasing Partner. Such Right of First Refusal may be exercised by Purchasing Partner by giving of written notice of exercise thereof to 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 as more specifically set forth in Paragraph 7 of this Section F.

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, such 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 Paragraph 3 of this Section F, in the event Purchasing Partner fails to timely exercise the Right of First Refusal to purchase hereunder.

4. Rights of Purchasers. If any or all Purchasing Partner(s) exercise their Right of First Refusal as discussed in Paragraph 3 of this Section F, they shall initially have the right to purchase a portion of the offered shares equal to their percentage interest in the remaining Partnership.

5. Valuation of Partnership Interest. If there shall be cause for an appraisal to be completed with respect to the value of a Partner's interest, 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 a Partner shall notify the Partnership in writing that an appraisal shall be completed. 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, according to the American Society of Appraisers, and not investment value, without consideration given for discount as a result of lack of marketability. The valuation of a Partner's interest shall be the value of the Partnership multiplied by the percentage interest being valued without any further discount taken for lack of control, minority interest, or lack of liquidity. Such valuation of Partnership interest shall be known as the Purchase Price.

6. Terms of Payment. If the Purchasing Partner shall elect to pay the price under the Notice of Offer, then he shall also elect the same terms and conditions for the payment of such purchase price. If he shall elect the Purchase Price as determined under Paragraph 5 of this Section F, then such amount shall be paid according to the following terms:

a. Cash Payment to Selling Partner. There shall be no cash paid at Date of Closing. Assumption by Purchasing Partner of Selling Partner's allocable portion of any outstanding indebtedness against the Partnership shall be utilized as a reduction in the face amount of the promissory note.

b. A Promissory Note Payable to Selling Partner. An amount equal to One Hundred Percent (100.00%) of the Purchase Price payable to Selling Partner shall be evidenced by a promissory note executed by the Purchasing Partner

payable to Selling Partner, requiring equal monthly payments based on an Eighty-four (84) month amortization, with a maturity of Eighty-four (84) months, and bearing an annual fixed interest rate equal to the Prime Rate on the Date of Closing Prime Rate as quoted in *The Wall Street Journal* plus three percent (3.00%) and, the first payment being due one (1) month after Date of Closing. Purchasing Partner shall have the privilege of prepaying all or any part of said Note at any time thereafter without penalty.

7. Noncompetitive Covenant. Selling Partner agrees that for a period of Three (3) years from the last day of association with the Partnership as provided for herein, neither the Selling Partner nor any corporation, Partnership, or joint venture in which the Selling Partner holds an ownership interest or which employs the Selling Partner shall: (i) engage in the practice of dentistry within a geographical radius of ten (10) miles of the Partnership's offices as described in Paragraph 6 of Section A or any offices established by the Partnership, or (ii) solicit or otherwise contact any referring doctors or patients or otherwise dissuade such referring doctors or patients from using the Partnership for dental services, regardless of the geographical location of the Partnership's dental practice, provided that any communication from the Selling Partner to any patient that is required by any law, rule, or regulation governing the Selling Partner's practice of dentistry shall not be deemed to be a violation of any provision of this Agreement.

Should Selling Partner violate this Covenant Not to Compete, Selling Partner shall pay to Purchasing Partner the following as liquidated damages:

During the first twelve (12) months after Effective Date the sum of eighty-five percent (85%) of the purchase price as determined herein.

During the second twelve (12) months after Effective Date the sum of sixty-five percent (65%) of the purchase price as determined herein.

During the third twelve (12) months after Effective Date the sum of forty-five percent (45%) of the purchase price as determined herein.

Payments shall be considered to be received in violation of the noncompetitive covenant by the Selling Partner for purposes of this Paragraph 7 of this Section F if such payments are received by (i) any corporations, partnerships, or other entities in which the Selling Partner holds an ownership interest or which employs Selling Partner, or (ii) any family or related members of the Selling Partner. The Partnership shall have the right to inspect the books and other records of the Selling Partner's competitive practice monthly for a period of Three (3) years following the date the Selling Partner commenced such competitive activities in violation of their Covenant Not to Compete.

The Selling Partner 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. The Selling Partner hereby agrees and acknowledges that the restrictions and remedies contained in this Paragraph 7 of this Section F are reasonable, will not prevent the Selling Partner from earning a livelihood,

will not cause an abandonment of any patient, and are necessary to protect the Purchasing Partner's legitimate interest.

G. PURCHASE UPON DEATH OR DISABILITY

1. Purchase and Sale of Partnership Interest upon Death of an Owner of a Partner.

- a. Upon the death of the owner of any Partner, his/her estate and surviving spouse, if any, shall offer all interest in the Partnership owned by them, directly or indirectly, for sale to the other Partner and that Partner shall purchase all of the Partnership interest so offered upon the terms and conditions set forth in this Agreement and for the Purchase Price set forth in Paragraph 5 of Section F.
- b. The surviving Partners hereby specifically agree to purchase all of the Partnership interests offered pursuant to Paragraph 1.a of this Section G above.

2. Purchase and Sale upon Disability of an Owner of a Partner.

- a. In the event an owner of a Partner becomes disabled (as hereinafter defined), that Partner shall have the obligation to offer all of the partnership interest owned by the Partner for sale to the other Partners upon the terms and conditions set forth in this Agreement and for the Purchase Price set forth in Paragraph 3 of this Section G.
- b. The Partner whose owner is not disabled hereby specifically agrees to purchase all of the Partnership interest offered pursuant to Paragraph 2.a. of this Section G above.
- c. An owner of a Partner shall be considered disabled for the purposes of this Agreement if, due to injury or the onset of any illness, the owner either is (i) deemed to be disabled under the definition of disability as contained in the disability policy insuring the owner of a Partner as scheduled in Exhibit "F" of this Agreement or (ii), if no such disability policy then in force requires payment, the owner is unable, for a period of ninety days, to perform dentistry.

3. Purchase Price in the Event of Death or Disability. In the event of the death or disability of an owner of a Partner, the price paid for the partnership interest of the deceased or disabled Partner shall be the greater of (i) the proceeds paid of any applicable life and/or disability policies then in force on the deceased or disabled Partner,

and as scheduled in Exhibit “F” of this Agreement, or (ii) the Purchase Price set forth in Paragraph 5 of Section F.

4. Payment Terms. An amount equal to the purchase price as determined in Paragraph 5 of Section F shall be paid in cash within ninety days of the death or disability to the Partner whose owner is deceased or to the Partner whose owner is disabled. If such disability policy shall contain terms of installment payout over a period of months, the initial payment to the disabled Partner shall satisfy the terms of this Paragraph 4 of Section G. The purchase shall be effective on the last day of the month in which an owner of a Partner is deceased or is deemed to be disabled.

5. Power of Attorney. Each Partner hereby grants to the other Partner and its owner a power of attorney and hereby appoints the owner of the other Partner as that Partner’s attorney-in-fact, for the purpose of executing or filing any documents or otherwise taking any actions so as to effectuate the provisions of this Agreement, including, but not limited to, the mandatory sale provisions required by this Section G. This power of attorney is irrevocable and is coupled with an interest.

H. WITHDRAWAL

1. Withdrawal. A Partner ceases to be a Partner on the occurrence of an event of withdrawal. An event of withdrawal of a Partner occurs on:

- (a) Receipt by the Partnership of written notice of the Partner’s express will to withdraw as a Partner on the date specified in the notice (which date must be at least Twelve (12) months after the Partnership’s receipt of such notice);
- (b) In the case of a Partner whose owner has his/her license to practice dentistry revoked, cancelled, or suspended permanently or for a period of at least sixty (60) days;
- (c) Termination of a Partner’s existence;
- (d) A judicial decree, on application by a Partner or the Partnership for the Partner’s expulsion, requiring a winding up if the decree determines that:
 - (1) A Partner or an owner of a Partner has engaged in wrongful conduct that adversely and materially affected the Partnership business;
 - (2) A Partner or an owner of a Partner willfully or persistently committed a material breach of this Agreement or of a duty owed to the Partnership or the other Partners under Section 4.04 of the Act; or

- (3) A Partner or an owner of a Partner engaged in conduct relating to the Partnership business that made it not reasonably practicable to carry on the business in partnership with the Partner.

The events specified in Paragraph 1 (a), (b), (c), and (d) of this Section H shall constitute a “wrongful withdrawal” within the meaning of the Act. Should an event of withdrawal of a Partner occur, that Partner agrees that, for a period of Three (3) years from the date of withdrawal from the Partnership, neither the Partner, its owner, nor any entity in which the Partner or its owner holds an ownership interest or which employs the Partner’s owner shall: (i) engage in the practice of dentistry within a geographical radius of Ten (10) miles of the Partnership’s offices as described in Paragraph 6 of Section A or any additional offices established by the Partnership, or (ii) solicit or otherwise contact any referring doctors or patients or otherwise dissuading such referring doctors or patients from using the Partnership for dental services, regardless of the geographical location of the Partnership’s dental practice; provided that any communication from the Partner to any patient that is required by any law, rule or regulation governing the Partner’s practice of dentistry shall not be deemed to be a violation of any provision of this Agreement. Should a Partner violate this non-competition agreement, the Partner shall pay to the other Partner the liquidated damages as specified in Paragraph 7 of Section F. Additionally, the Partnership may offset any amounts owed to the other Partner from any amounts owed to the withdrawing Partner for redemption or otherwise. The Partnership and the remaining Partner shall have the right to inspect the books and other records of the withdrawing Partner’s competitive practice monthly for a period of Three (3) years following the date of withdrawal.

The Partners agree 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. The Partners agree and acknowledge that the restrictions and remedies contained in this Section are reasonable, will not prevent a Partner from earning a livelihood, will not cause an abandonment of any patient, and are necessary to protect the Partnership’s legitimate interests.

2. Redemption of Partnership Interest.

- (a) Upon the withdrawal of a Partner under Section H.1 and if an event requiring a winding up under Section I.1 does not occur within sixty (60) days after the date of withdrawal, the Partnership shall purchase the Partnership Interest of the withdrawn Partner (the “Affected Partner”) and the Affected Partner or its representative shall sell its Partnership Interest.
- (b) The purchase price shall be under the price as determined in Paragraph 5 of Section F and under the terms as stated in Paragraph 6 of Section F.
- (c) The payment to the affected Partner or its representative under this Section is in complete liquidation and satisfaction of all the rights and interest of

the affected Partner and its representative (and of all Persons claiming by, through, or under the affected Partner and its representative) in and in respect of the Partnership, including, without limitation, any Partnership interest, any rights in Partnership income, distributions or specific Partnership property, and any rights against the Partnership and (insofar as the affairs of the Partnership are concerned) against the Partners.

I. WINDING UP AND TERMINATION

1. Winding Up. The Partnership's business and affairs shall be wound up upon the earlier of (a) December 31, 2040; (b) the affirmative vote of a majority in Partnership Interests of the Partners; (c) an event of withdrawal under Section H; (d) an event that makes it illegal for all or substantially all of the business of the Partnership to be continued unless a cure of the illegality occurs within ninety (90) days after the date of notice to the Partnership of the event of illegality; and (e) the sale of all or substantially all of the property of the Partnership outside the ordinary course of business. However, the Partnership shall continue and shall not be wound up if the Partnership was to be wound up for reasons set forth in section (a) and (c) of Section H paragraph 1 [other than due to a judicial decree as outlined in Section H paragraph 1 (d)] and a majority in Partnership Interests of the remaining Partners elect to continue the Partnership. Except as the Act may require under non-waivable provisions, no other event shall require a winding up of the Partnership.

2. Winding Up Liquidation. After the occurrence of an event requiring winding up occurs, the Partners who have not withdrawn shall wind up the Partnership's business and shall appoint a person as liquidator who shall proceed diligently to wind up the affairs of the Partnership and make final distributions as provided in this Agreement. The costs of liquidation shall be borne as a Partnership expense. The steps to be accomplished by the liquidator are as follows:

- (a) As promptly as practicable after an event of withdrawal and again after final liquidation, the liquidator shall cause a proper accounting to be made of the Partnership's assets, liabilities, and operations through the last day of the calendar month in which winding up occurs or the final liquidation is completed, as applicable;
- (b) The liquidator shall pay from Partnership funds all of the debts and liabilities of the Partnership (including, without limitation, all expenses incurred in liquidation and any advances) or otherwise make adequate provision for them (including, without limitation, the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine); and
- (c) Settle the accounts among the Partners as follows:

- (i) The liquidator may sell any or all of the remaining Partnership property, including to Partners, and any resulting gain or loss from each sale shall be computed and allocated to the capital accounts of the Partners;
- (ii) With respect to all remaining Partnership property that has not been sold, the Fair Market Value of that property shall be determined and the capital accounts of the Partners shall be adjusted to reflect the manner in which the unrealized income, gain, loss, and deduction inherent in property that has not been reflected in the capital accounts previously would be allocated among the Partners if there were a taxable disposition of that property for the Fair Market Value of that property on the date of termination;
- (iii) Remaining Partnership property shall be distributed among the Partners in accordance with the positive capital account balances of the Partners, as determined after taking into account all capital account adjustments for the taxable year of the Partnership during which the liquidation of the Partnership occurs (other than those made by reason of this clause (iii)); and
- (iv) Any remaining Partnership property shall be distributed in proportion to the Partner's percentage interest in the Partnership.

All distributions in kind to the Partners shall be made subject to the liability of each distributee for its allocable share of costs, expenses, and liabilities previously incurred or for which the Partnership has committed prior to the date of termination and those costs, expenses, and liabilities shall be allocated to the distributee under this Section I paragraph 2. To the extent that a Partner returns funds to the Partnership, it has no claim against any other Partner for those funds.

3. Termination. On completion of the distribution of Partnership assets as provided in this Agreement, the Partnership is terminated, and the Partners (or such other person or persons as may be required) shall cause the cancellation of any filings made with the Texas Secretary of State and shall take such other actions as may be necessary to terminate the Partnership.

J. MISCELLANEOUS PROVISIONS

1. 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 day sent, postage prepaid, by registered or certified mail. Notice will be sent as follows:

TO JOHN SMITH:

JOHN A. SMITH, D.D.S.

TO THOMAS BROWN:

THOMAS L. BROWN, D.D.S.

or as otherwise directed by each party.

2. Malpractice Insurance. The Partnership will maintain malpractice insurance covering each employed dentist of the Partnership in the amount of at least One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) overall, against liability arising out of accidents or negligent professional conduct, but not against deliberate or reckless conduct.

3. 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 settled 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, _____ State _____.

4. Entire Agreement. 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.

5. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

6. Other Instruments. The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the Partnership created by this Agreement.

7. Enforcement of Agreement. This Agreement shall be interpreted and enforced in accordance with the internal laws, and not the laws of conflicts, of the State of Texas. In the event that any provision of this Agreement is held to be invalid or illegal, such invalidity or illegality shall not impair or affect 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.

8. Counterparts. This Agreement may be executed simultaneously in multiple counterparts, each of which shall constitute an original and all of which together shall constitute but one and the same instrument. It shall not be necessary that any single counterpart hereof be executed by all parties hereto so long as at least one counterpart is executed by each party.

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

JOHN A. SMITH, D.D.S.

THOMAS L. BROWN, D.D.S.

The undersigned are the respective Partners and are executing this Agreement to agree to and acknowledge their individual obligations contained in this Agreement.

JOHN A. SMITH, D.D.S.

THOMAS L. BROWN, D.D.S.

The undersigned are the respective spouses of SMITH and BROWN, and each of us states that we have read this Agreement, understand same, and fully agree to its terms. We also state that we have had the opportunity of seeking independent counsel.

wife of SMITH

wife of BROWN

PROFESSIONAL PARTNERSHIP AGREEMENT

TABLE OF EXHIBITS

1. Exhibit A - Contributions to Capital and Ownership Percentages
2. Exhibit B – Valuation of Individual Partner Capital Contributions
3. Exhibit C – Illustration of Allocation of Partnership Expenses
4. Exhibit D – Fair Market Value of the Dental Practice of JOHN A. SMITH, D.D.S., as of _____, 20__
5. Exhibit E – Fair Market Value of the Dental Practice of and THOMAS L. BROWN, D.D.S., as of _____, 20__
6. Exhibit F – Schedule of All Insurance Policies Insuring Lives of All Partners for Either Life or Disability

STATE OF _____ §

COUNTY OF _____ §

On this _____ day of _____, 20____, before me a Notary Public, personally appeared JOHN A. SMITH, D.D.S., Individually, to me known to be the personal described in and who executed the foregoing instrument and acknowledged that HE/SHE executed the same as his 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, State of _____

My Commission Expires:

STATE OF _____ §

COUNTY OF _____ §

On this _____ day of _____, 20____, before me a Notary Public, personally appeared THOMAS L. BROWN, D.D.S., Individually, to me known to be the personal described in and who executed the foregoing instrument and acknowledged that HE/SHE executed the same as his 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, State of _____

My Commission Expires:

STATE OF _____ §

COUNTY OF _____ §

On this _____ day of _____, 20____, before me a Notary Public, personally appeared _____ wife of John Smith_____, Individually, to me known to be the personal described in and who executed the foregoing instrument and acknowledged that she executed the same as 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, State of _____

My Commission Expires:

STATE OF _____ §

COUNTY OF _____ §

On this _____ day of _____, 20____, before me a Notary Public, personally appeared _____ wife of Thomas Brown_____, Individually, to me known to be the personal described in and who executed the foregoing instrument and acknowledged that she executed the same as 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, State of _____

My Commission Expires:

EXHIBIT A

STATE OF _____ §

COUNTY OF _____ §

PARTNERSHIP CONTRIBUTION

In exchange for a _____ percent (___%) Partnership interest, I, JOHN A. SMITH, D.D.S., contribute, transfer and convey to SMITH BROWN, L.L.P., (1) my One Hundred percent (100%) undivided interest in and to all of the assets set forth on the Schedule of Assets attached hereto and (2) my One Hundred percent (100%) undivided interest in and to the patient records of those patients formerly seen and treated by JOHN A. SMITH, D.D.S., at his dental practice in _____ City _____, _____ State _____, including all files, contracts receivables, work papers, patient lists, phone numbers, covenants and practice goodwill.

This contribution is effective _____ and this document is executed _____.

JOHN A. SMITH, D.D.S.

In exchange for a _____ percent (___%) Partnership interest, I, THOMAS L. BROWN, D.D.S., contribute, transfer and convey to SMITH BROWN, L.L.P., (1) my One Hundred percent (100%) undivided interest in and to all of the assets set forth on the Schedule of Assets attached hereto and (2) my One Hundred percent (100%) undivided interest in and to the patient records of those patients formerly seen and treated by THOMAS L. BROWN, D.D.S., at his dental practice in _____ City _____, _____ State _____, including all files, contracts receivables, work papers, patient lists, phone numbers, covenants and practice goodwill.

This contribution is effective _____ and this document is executed _____.

THOMAS L. BROWN, D.D.S.

EXHIBIT B
VALUATION OF INDIVIDUAL PARTNER CAPITAL CONTRIBUTIONS

<u>Partner</u>	<u>Agreed Value of Capital Contribution</u>
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<u>SMITH</u>	<u>\$ (net of any liabilities)</u>
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<u>BROWN</u>	<u>\$ (net of any liabilities)</u>
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EXHIBIT C
ILLUSTRATION OF ALLOCATION OF PARTNERSHIP EXPENSES

EXHIBIT D

FAIR MARKET VALUE
OF THE DENTAL PRACTICE OF
JOHN A. SMITH, D.D.S.
AS OF _____, 20__

EXHIBIT E

FAIR MARKET VALUE
OF THE DENTAL PRACTICE OF
THOMAS L. BROWN, D.D.S.
AS OF _____, 20__

EXHIBIT F

SCHEDULE OF ALL INSURANCE POLICIES INSURING LIVES OF ALL
PARTNERS FOR EITHER LIFE OR DISABILITY