

DENTIST EMPLOYMENT AGREEMENT

I. The Parties. This Dentist Employment Agreement (“Agreement”), made effective _____, 20____, by and between _____ (“Employer”) with a mailing address of _____, City of _____, State of _____

AND

_____ (“Practitioner”) with a mailing address of _____, City of _____, State of _____.

Collectively the Employer and Practitioner shall be known as the “Parties”.

II. Term. This Agreement shall begin on _____, 20____, and end on _____, 20____, unless extended in writing by both Parties. The Parties - **Shall** - **Shall Not** have rights to terminate this Agreement. If the Parties have the right to terminate this Agreement, termination must be made with ____ days’ notice.

III. Initial Period. There shall be: (choose one)

- **Trial Period.** During the initial ____ days after the employment start date (“Trial Period”), the following party(ies) is/are able to terminate this Agreement without penalty: **Practitioner Only** **Employer Only** **Both Parties**.

- **No Trial Period.** Agreement remains in effect until its end date or termination.

IV. Location. The Employee shall be designated to a:

- **Specific Location.** Practitioner shall be required to perform their Services at the specific location of _____, City of _____, State of _____ (“Premises”). If the Premises were to change it would require the written consent of the Practitioner.

- **Location At-Will.** Practitioner shall be required to perform their Services at the location as designated by the Employer upon the Practitioner’s written consent (“Premises”).

V. Practitioner’s Availability. Subject to the other provisions of this Agreement, the Practitioner shall be subject to the Employer’s reasonable direction and control with respect to activities on behalf of the Employer, including, but not limited to, the



reasonable assignment and scheduling of patients, scheduling of work hours, the timing of vacations and leave requests, which must be submitted within at least thirty (30) days' notice and with approval by the Employer, the times which the Practitioner may be on-call for patients under the Practitioner's care, and the establishment of professional policies and procedures of which the Practitioner shall be given prior written notice.

a.) **Working Hours.** Working days and hours for the Employer shall be ____ days per week, specifically _____ thru _____, with hours ranging from ____:____ AM PM to ____:____ AM PM.

VI. Compensation. For the Services provided by the Practitioner, the Employer agrees to pay the Practitioner as follows: (choose one)

- **Salary ONLY.** The Practitioner agrees to be compensated in the amount of \$_____ per year ("Salary").

- **Net Revenues ONLY.** The Practitioner agrees to be compensated in the amount of ____% of each dollar from all sources that the Employer receives for the Practitioner's Services rendered to patients ("Net Revenues"). Net Revenues shall not include any refunds or Services that were provided on a pro-bono basis.

- **Salary plus Net Revenues.** The Practitioner agrees to be compensated in the amount of \$_____ per year ("Salary") and to collect ____% of each dollar from all sources that the Employer receives for the Practitioner's Services rendered to patients ("Net Revenues"). Net Revenues shall not include any refunds or Services that were provided on a pro-bono basis.

- **Other.** _____

VII. Payment Schedule. The Employer agrees to pay the Practitioner: (check all that apply)

- **Salary** on a - Weekly - Bi-Weekly - Monthly - Quarterly - Semi-Annual - Annual basis.

- **Net Revenues** on a - Weekly - Bi-Weekly - Monthly - Quarterly - Semi-Annual - Annual basis.

VIII. Services Rendered. The Practitioner agrees to provide dental care and treatment that is consistent with industry quality standards and the Employer's standards ("Services"). The Practitioner shall be obligated to perform at least ____ hours per week at the Premises. Practitioner shall not be required to work more than ____ hours per week. At the option of the Practitioner, he or she may work additional hours as agreed upon between the Parties. Practitioner shall always perform their Services to the best of

their abilities while following all rules, regulations, statutes, and any of the Employer's policies.

IX. Liability Coverage Insurance. Employer shall provide professional liability insurance coverage for patient care services performed by the Practitioner within the scope of the Practitioner's duties and licenses under this Agreement. The liability insurance coverage shall be no less than \$_____ per occurrence and \$_____ aggregate. Practitioner may obtain, at Practitioner's sole expense, such primary, supplemental, or additional professional liability insurance coverage as the Practitioner desires.

- a.) **Tail Coverage.** In the event professional liability coverage for Practitioner is provided on a "claims made" basis and extended reporting coverage ("tail coverage") is required upon termination of Practitioner's employment to continue the coverage protection of the Employer, tail coverage shall be obtained. Practitioner shall be responsible for payment of the premium for tail coverage. Employer shall have the right to pay the reasonable and necessary premium for the tail coverage in the same limits previously maintained and deduct the amount of such premium from any amounts otherwise due to the Practitioner under this Agreement or any other agreement between the Employer and Practitioner. Practitioner shall provide the Employer with evidence of such tail coverage.

X. Time-Off. Practitioner shall be eligible to personal and work-related time off including, but not limited to, administrative leave, bereavement leave, continuing education, and any other types approved by the Employer such as a holiday schedule to be produced by the Employer at the beginning of every year.

- a.) **Continuing Education.** Practitioner is encouraged and expected, from time to time, to attend educational conventions, meetings, post-graduate courses, seminars, and any other educational needs that enhance the performance of the Practitioner's Services.
- b.) **Personal Time-Off.** Practitioner shall be entitled to ____ days off per year for vacation. Practitioner shall give the Employer prior notice in accordance with the employee handbook or other rules or procedures put forth by the Employer. Practitioner must obtain the Employer's consent prior to their personal time-off, which shall not be unreasonably withheld by the Employer. Personal time-off shall not be part of or included with any other days off from work.

XI. General Termination. The following shall have rights to terminate this Agreement:

- **Practitioner Only.** The Practitioner shall have the right to terminate this Agreement, without cause and at any time, upon ____ days' written notice to the Employer. The Employer shall have no right to terminate this Agreement.

- **Employer Only.** The Employer shall have the right to terminate this Agreement, without cause and at any time, upon ____ days' written notice to the Practitioner. The Practitioner shall have no right to terminate this Agreement. If the Employer elects to terminate this Agreement without cause, the Practitioner shall be entitled to collect their compensation, as stated in Section VI, for a period of ____ days following the termination date.

- **Both Parties.** The Employer and Practitioner shall have the right to terminate this Agreement, without cause and at any time, upon ____ days' written notice to the other party.

- **No Rights to Terminate.** The Employer and Practitioner shall have no right to terminate this Agreement without cause.

XII. Non-Solicitation. As a condition of employment under this Agreement, the Practitioner agrees to be bound by the covenant not to compete and the covenant not to solicit after the commencement date of this Agreement, which is incorporated in this Agreement; provided, however, the covenant not to compete and the covenant not to solicit the Practitioner's patients shall not be applicable and shall be null and void if this Agreement is terminated by the Employer without cause .

Practitioner agrees and covenants that during the term of this Agreement, and for a period of twelve (12) months after termination, the Practitioner shall not either (i) directly as a partner, employer, agent, independent contractor, or employee, or (ii) indirectly through a corporation, partnership, affiliate, subsidiary, employer, or otherwise, unless approved by the Employer:

Solicit, induce, or attempt to induce, in connection with any business competitive with that of the Employer, patients of any practitioner employed by or under contract with the Employer to leave the care of such practitioner; provided, however, upon termination of employment, Practitioner shall be permitted to deliver notices to patients as required by State laws and regulations, and the Practitioner shall be permitted to solicit patients that were seen or treated by the Practitioner within one (1) year of termination of this Agreement to the extent permitted by the specific exceptions to the Non-Compete in Section XIII; or

Solicit, induce, or attempt to induce any employee, consultant, or other persons employed or otherwise under contract with the Employer to leave the employment of, or to discontinue their employment with the Employer.

XIII. Non-Compete. The Practitioner acknowledges that the Employer has taken risks and expended a great deal of time, effort, and resources (financial and otherwise) in developing the Employer's practice, including establishing substantial positive name recognition, goodwill, and relationships with patients, other Practitioners, third-party payors, health insurers, employers, and employees, which all give the Employer a significant competitive advantage. The Practitioner further acknowledges that the Practitioner from the outset will benefit and profit significantly from the Employer's

acceptance of the Practitioner into its dental practice and from these expenditures of time, effort, and resources by the Employer, including its substantial positive name recognition, goodwill, and relationships, which will permit the Practitioner's practice to grow and succeed. The Practitioner acknowledges the Employer's legitimate business interest in protecting the value of its investment of time, effort, and financial resources, and its substantial positive name recognition, goodwill, and relationships with patients, referral sources, third (3rd) party payors, health insurers, employers, and employees, as well as in guarding against the improper use of any Confidential Information. The Practitioner agrees that this covenant not to compete is reasonably designed to protect these legitimate business interests of the Employer. Therefore, the Practitioner agrees that after the commencement date of the Practitioner's employment with the Employer and for a period of twelve (12) months after the date of termination of this Agreement, that for any reason, that for any reason, except for termination of the Practitioner by the Employer without cause at any time within the first three-hundred and sixty five (365) days of employment and except for termination of this Agreement by the Practitioner at any time for cause pursuant to Section XXVIII and Section XXIX of this Agreement, the Practitioner shall not, directly or indirectly, within a geographical area that is within a 20 mile radius of the Employer's offices where the Practitioner has spent at least fifty-one (51%) percent of his or her time for the past twelve (12) months, establish an office to engage in the Practitioner's profession or become associated with any practice, group, professional employer, practitioner-hospital organization, managed care entity, or any other entity delivering the Practitioner's professional services, either as an employee, stockholder, investor, as long as it's not a publicly traded company in which the practitioner is not an officer, director, employee, partner, sole proprietor, agent, or consultant, which is in any way competitive with the business of the Employer, it being intended by the Parties that for the agreed period the Practitioner will perform no act which may confer any competitive benefit or advantage on any enterprise in competition with the Employer ("Non-Compete"). Notwithstanding anything to the contrary, in the event of (i) termination of the Practitioner by the Employer without cause at any time within the first three-hundred and sixty five (365) days of employment pursuant to this Agreement and (ii) termination of this Agreement by the Practitioner at any time with cause pursuant to this Agreement, then this Non-Compete shall not apply to the Practitioner and shall be null and void, and notwithstanding the non-solicitation covenant in Section XII, the Practitioner shall be permitted to solicit any patient that was seen or treated by the Practitioner within one (1) year prior to termination of this Agreement.

XIV. Activities Allowed Under the Non-Compete. Notwithstanding the terms and conditions of the aforementioned Non-Compete, the Employer shall:

- a.) **No Denial.** Not deny the Practitioner a list of patients seen or treated by the Practitioner within one (1) year of termination of this Agreement;
- b.) **Access to Records.** Provide access to records of patients seen or treated by the Practitioner upon proper authorization from the patient, and Employer shall provide such records for a reasonable fee as established by State law or regulation;

- c.) **List of Patients.** Provide the Practitioner access to a list of patients in the same format in which such lists or records are maintained, except by mutual agreement by the Practitioner and the Employer;
- d.) **Buy-Out.** Agree that, in addition to the Practitioner, a violation of the Non-Compete shall result in actual damages to the Employer that are difficult to accurately estimate. The Parties further stipulate and agree that a reasonable calculation of such damages shall be \$_____. Practitioner shall pay such amount to the Employer as a reasonable buy-out of the Practitioner's obligations to abide by the Non-Compete in the event that the Practitioner, at the Practitioner's option, practices their Services or intends to practice their Services in violation of the Non-Compete upon termination of this Agreement; and
- e.) **Continuing Care.** Not prohibit the Practitioner from providing continuing care and treatment to a specific patient during the course of the patient's acute illness; provided, however, the Practitioner shall give the Employer written notice of any patient for whom the Practitioner is assuming the responsibility to provide such continuing care and treatment, along with a copy of proper written patient authorization for the Practitioner to access and/or obtain copies of the patient's records.

XV. Confidential Information. The Practitioner agrees to not use the Confidential Information during the term of this Agreement or thereafter for a period of twelve (12) months or the maximum allowed under State law, whichever is lesser. This shall not apply if the Practitioner is sharing Confidential Information in order to improve their obligations under this Agreement with the written consent of the Employer. The Practitioner accepts and understands that he or she shall not release, disclose, or disseminate any Confidential Information of the Employer to any other person or entity except as medically or dentally necessary, upon the prior written authorization of the Employer, or as specifically required by a court of competent jurisdiction or governmental agency, and except in the case that this information has been made public or becomes public by no breach of the Practitioner. Upon termination of this Agreement, the Practitioner shall promptly return any Confidential Information in the Practitioner's possession or control to the Employer.

XVI. Record-Keeping. All records on behalf of the Parties shall be the responsibility of the Practitioner and Employer. Both Parties agree to keep and maintain accurate and appropriate records in connection with any and all Services rendered by the Practitioner. All reports, claims, and necessary correspondence that are appropriate to the specific circumstance shall be dealt with in a timely fashion.

XVII. Employer's Rules. Practitioner agrees to comply with all policies, procedure, protocols, orders, bylaws, rules, and regulations of the Employer, either in an employee handbook or other equivalent document. Practitioner agrees that at any time he or she may be required to perform work on a consulting basis or for another medical office as part of this Agreement.

XVIII. Practitioner's Refusal of Services. The Practitioner may, for any justifiable reason, refuse to perform their Services on a patient that is deemed to be in noncompliance with their instructions, protocols, or procedures.

XIX. Practitioner's Good Faith. The Practitioner shall make a good faith effort to be courteous and respectful in regard to the rights, dignity, and respect of the patients with whom they shall come into contact. The Practitioner agrees to always use their best efforts to work in a cooperative manner with other practitioners and staff of the Employer.

XX. Restrictions. The Practitioner shall not be able to provide their Services, during business or non-business hours, to any patient other than those served by the Employer. The Practitioner agrees to only promote their Services by directing any new patients through the Employer. Any Service that is provided by the Practitioner, unless consent by the Employer is granted, shall be prohibited that is outside the Premises.

XXI. Employer's Responsibilities. Employer makes the following claims as part of this Agreement and agrees to be responsible for the following:

- a.) **Rooms.** Employer shall provide, at their own expense, all rooms, chairs, tables, desks, equipment, and any other fixtures needed for the Practitioner to fully complete their Services;
- b.) **Administrative Needs.** Employer shall, at their own expense, provide administrative assistance for Practitioner and his or her patients. Administrative assistance shall include, but is not limited to, billing, insurance claims, scheduling of patients, and any other everyday tasks necessary for the Practitioner to fulfill patients' needs. Furthermore, administrative assistance shall be responsible for maintaining true and accurate financial records in accordance with industry standards that shall allow the Practitioner the right to audit such records for accounting purposes.
- c.) **Access to Patient Information.** Employer agrees to permit the Practitioner, at any time upon request, to gain full access to records, computer entries, patient or insurance payment information, EOB's, and any other information or details submitted by the patient that is needed to verify medical records or the accuracy of billing information for auditing purposes.
- d.) **Equipment & Supplies.** Employer, at their own expense, shall provide all necessary equipment, materials, and supplies that will allow the Practitioner to serve their patients in accordance with the current and most advanced procedures as economically possible.
- e.) **Digital Records.** Employer, at their own expense, shall be responsible for recording and maintaining, along with any digital backups, all health and medical records of the patients. This shall include, but not be limited to, health history, X-rays, treatments, diagnosis, and any other details that should be kept on behalf of the patient.

- f.) **Staff.** Employer agrees that the Practitioner shall have an input, but not the final determination, on employees and other practitioners that may be hired, disciplined, or terminated by the Employer.
- g.) **Refunds.** Employer shall be responsible for refunding patients, including insurance overpayments, of the Practitioner. Employer agrees to do so in a timely manner.
- h.) **Right to Bill.** As a condition of the Practitioner's employment hereunder, the Practitioner hereby assigns to the Employer the right the Practitioner may have to bill any third (3rd) party payor, including, without limitation, Medicare and/or Medicaid, for professional services. Practitioner acknowledges that the Employer shall submit these bills in its own name, and that the Practitioner is hereby precluded from billing any third (3rd) party payor for Practitioner's professional services. The Employer will at all times bill and collect for services provided by the Practitioner, in addition to overpayments, in material compliance with all applicable laws, regulations, and third (3rd) party payor requirements. The Employer shall at all times allow the Practitioner to access any records to verify the accuracy of the Practitioner's billing and payment receipts.

XXII. Practitioner's Status. The Employer shall have the right to control, direct, and supervise the Services provided by the Practitioner; provided, however, the Employer shall not impose duties or constraints of any kind that would require the Practitioner to infringe upon the ethics of the profession or to violate any laws, rules, or regulations or to differ materially and adversely from those duties placed on any other practitioner employee or affiliated practitioner of the Employer. Unless otherwise stated in this Agreement, the Practitioner shall have no grounds to enter into any binding arrangement or contract on behalf of the Employer without their specific written authorization. In addition, the Employer shall not have grounds to enter into any obligation or legally binding arrangement on behalf of the Practitioner without their written authorization.

XXIII. Practitioner's Diagnosis. Decisions regarding the diagnosis and medical treatment of patients shall be made directly through judgment of the Practitioner. Furthermore, any and all such medical decisions shall be the responsibility of the Practitioner and to be rendered in accordance with the most advanced industry practices.

XXIV. Applicable Laws. The Employer and Practitioner make the following claims:

- a.) **Employer.** Employer acknowledges that all aspects of their entity, business practice, and any other local, county, State, or federal requirements, including licensing, have been met in order to practice the services on the Premises. Furthermore, it shall be the responsibility of the Employer to keep said licenses current during the term of this Agreement. If for any reason the Employer is not current with any license that prohibits the Practitioner to

practice their Services on the Premises, Practitioner shall have the right to terminate this Agreement immediately. If the Practitioner was unlawfully rendering their Services while the Premises were not legally in compliance with local, county, State, or Federal law, the Employer shall bear all legal and financial responsibility for such non-compliance.

- b.) **Practitioner.** Practitioner is licensed to practice their services on the Premises in accordance with State law. Practitioner agrees that it is their responsibility to keep their license(s) current in accordance with the State where the Premises is located. If for any reason the Practitioner practices their Services without a valid license, the Practitioner agrees to indemnify the Employer and accept all legal and financial responsibility of such acts.

XXV. Employment Benefits. Practitioner is entitled to participate in any 401(k)-retirement plan, profit-sharing agreements, or similar benefit plans. In addition, Practitioner shall be eligible for any group life insurance, health insurance, accident insurance, disability insurance or any other professional liability insurance or benefits, or other employee benefits available generally to practitioners employed by the Employer to the extent permitted by such plans and the applicable statutes and regulations, as set out in the employee handbook created by the Employer.

XXVI. Medical Records. All dental history of the Practitioner's patients, including, but not limited to, records, x-rays, digital or physical files, and any other information, shall be the property of the Practitioner. Upon the termination of this Agreement, or any termination or separation between the Practitioner and the Employer, Employer agrees to maintain the Practitioner's patients' dental history in accordance with State and Federal law. Practitioner shall have the right, after such termination or separation, to reproduce at the Practitioner's own expense, and at a reasonable time for the Employer, any files, documents, and records to make the dental history available. In the event the Employer is dissolved, liquidated, or fails to properly maintain digital patient records during such time as this Agreement is in effect, all files, documents, and records relating to each patient shall be delivered to the Practitioner designated in writing by the patient or, in the absence of such designation, to the practitioner who had the responsibility for the care of such patient.

XXVII. Prior Investigations. Practitioner represents and warrants that, to the best of the Practitioner's knowledge, he or she is not currently involved in any lawsuits or investigations involving the Practitioner's practice of their profession or any act related to the dental or medical field. Practitioner further represents and warrants that he or she knows no facts that would reasonably cause the Practitioner to believe that such an action or investigation would be initiated. Practitioner shall promptly notify the Employer if an investigation is initiated. In addition, Practitioner shall promptly notify the Employer of any pending or threatened malpractice claim or demand for payment made against the Practitioner, or incident which is like to give rise thereto, and provide such related information as to such claim, demand, or incident as the Employer may request. In addition, the Employer shall promptly notify the Practitioner of any pending or threatened malpractice claim or demand for payment made against the Employer, or incident which is likely to give rise thereto, and provide such related information as to

such claim, demand, or incident as the Practitioner may request. Practitioner shall be required to promptly notify the Employer of any action or investigation taken by any licensure board to restrict or revoke the Practitioner's license to practice their Services.

XXVIII. Immediate Termination. This Agreement shall terminate upon written notice by the Employer if any of the following shall occur:

- a.) **License Revocation.** The suspension, revocation, or cancellation of the Practitioner's license to practice their Services, provided that any suspension, limitation, revocation, or cancellation of the Practitioner's license is not cured within thirty (30) days after such event; however, until Practitioner's license is reinstated, the Practitioner may not practice his or her profession;
- b.) **Liability Coverage.** The Employer's or Practitioner's inability to procure professional liability coverage for the Practitioner, provided that the Employer's or Practitioner's inability to procure professional liability coverage for Practitioner is not cured within thirty (30) days after such event; however, until coverage is procured, the Practitioner may not practice his or her Services;
- c.) **DEA License.** The suspension, revocation, or cancellation of the Practitioner's DEA license, provided that such suspension, revocation, or cancellation of the Practitioner's license is not cured within thirty (30) days after such event; however, the Practitioner may not prescribe any drug requiring a DEA license until the Practitioner is reinstated;
- d.) **Medicare/Medicaid Programs.** The restriction, suspension, or revocation of the Practitioner's participation in Medicare and/or Medicaid programs;
- e.) **Hospital or Government Authority.** The imposition of any suspension, restriction, or limitation by any hospital or governmental authority to such an extent that the Practitioner cannot perform their Services under this Agreement;
- f.) **Conviction.** The Conviction of the Practitioner of a felony or misdemeanor involving moral turpitude;
- g.) **Patient Safety.** An act or omission by the Practitioner which places a patient's health or safety in unreasonable danger or imminent and serious harm;
- h.) **Practitioner's Failure.** Failure of the Practitioner:
 - I. To provide care to patients in a manner consistent with the standards established in the dental community in which the Practitioner practices and/or by the Employer;
 - II. Has a Final Adverse Action (as defined in 42 U.S.C. Section 1320a-7e) taken against him or her of which Practitioner has received prior written notice or enters into a settlement or other disposition of a matter wherein the allegations, if true and pursued to judgment, would have resulted in a Final Adverse Action, if in the good faith opinion of the Employer a material part of such allegations are substantially true;

- III. To comply with any State or Federal laws, rules, or regulations; or
- IV. To abide by the policies and healthcare procedures of Employer.

i.) **Death.** The death of the Practitioner.

XXIX. Uncured Termination. In addition, the Employer may terminate this Agreement upon the occurrence of any of the following events which remains uncured for a period of ten (10) days following delivery of written notice to Practitioner specifying such issue in sufficient detail:

- a.) **Duties.** Practitioner's failure or refusal to perform faithfully and diligently the duties required under this Agreement or to comply with the provisions of this Agreement;
- b.) **Policies and Standards.** Practitioner's failure or refusal to comply with the policies, standards, and regulations of the Employer, which includes, but is not limited to, utilization management, quality improvement, or credentialing policies, which from time to time may be established by the Employer and of which the Practitioner has received prior written notice;
- c.) **Negligence.** Practitioner's engagement in conduct amounting to fraud, dishonesty, gross negligence, willful misconduct, or conduct that is unprofessional, unethical, or detrimental to the reputation, character, or standing of the Employer or its practitioner employees or affiliated practitioners;
- d.) **Revocation.** Practitioner's revocation of Practitioner's assignment to the Employer of the right to bill and collect for all professional services performed by the Practitioner;
- e.) **Patient Care.** In the event that failure to terminate the Practitioner's employment would be inconsistent with, or detrimental to, appropriate patient care; and
- f.) **Breach.** Practitioner commits a breach of any obligation under this Agreement, provided that the Practitioner has not remedied the violation to the reasonable satisfaction of the Employer or provided a plan to remedy such violation, which plan is acceptable to the Employer in its reasonable judgment, within fifteen (15) days of receipt of written notice of the violation from the Employer, which notice shall state with reasonable particularity one of the following alleged violations:
 - I. Habitual drunkenness, drug addiction, or similar impairment;
 - II. Failure or inability of the practitioner to remain credentialed by payors representing seventy-five percent (75%) or more of the collected revenue related to the Practitioner fees of the Employer; or
 - III. Failure or refusal of the Practitioner to provide the Employer with information reasonably requested by the Employer for the Employer to evaluate whether the Practitioner is in violation of this Agreement or has committed any act or omission which might constitute cause for termination.

Furthermore, if during the term of this Agreement the Practitioner is unable, in the reasonable estimation of the Employer, to perform the essential functions of the Practitioner's duties under this Agreement due to a physical or mental condition or incapacity, with or without reasonable accommodation, the Employer shall continue to pay the Practitioner the full monthly compensation for a period not to exceed ninety (90) days. Thereafter, if the Practitioner is still unable, in the reasonable estimation of the Employer, to perform the essential functions of the Practitioner's duties under this Agreement due to a physical or mental condition or incapacity, with or without reasonable accommodation, it shall be deemed an undue hardship on the Employer to continue the employment relationship and all obligation to this Agreement may be terminated by the Employer.

XXX. Termination by Practitioner. This Agreement may be terminated for cause by the Practitioner immediately upon the occurrence of any of the following events upon delivery of written notice of such termination to Employer:

- a.) **Payment.** Employer fails to pay the Practitioner any amounts owed by the Employer pursuant to this Agreement, provided that such breach is not cured within ten (10) days after written notice to the Employer of such payment breach;
- b.) **Benefits.** Employer fails to provide any benefits set forth in this Agreement or the policies of the Employer, provided that such breach is not cured within ten (10) days after written notice to the Employer of such breach;
- c.) **Other Covenants.** Employer breaches any other covenant under this Agreement, provided that such breach is not cured within thirty (30) days after written notice to the Employer of such breach;
- d.) **Suspension.** If the Employer is suspended, excluded, or debarred from participation in any federal or state governmental healthcare program (including Medicare or Medicaid), whether such suspension, exclusion, or debarment is voluntary or involuntary;
- e.) **Dissolution.** In the event of dissolution of the Employer, insolvency or bankruptcy of the Employer, the Employer makes a general assignment for the benefit of creditors, or the Employer discontinues its operations; or
- f.) **Laws and Regulations.** If the Employer violates any law or regulation, or the rule of any governmental agency, as determined by a ruling or other binding decision of a court of law or such applicable governmental agency, which materially adversely affects the Practitioner's license or ability to practice their profession, the Practitioner's ability to participate in any governmental healthcare program, or subjects the Practitioner to termination, discipline, or other adverse legal action by a third (3rd) party payor; provided that such violation is not due to the act of omission of the Practitioner.

XXXI. Termination Obligations. Notwithstanding anything in this Agreement to the contrary, during the period of _____ days immediately after the cessation of the

Practitioner's employment and at the Practitioner's written request, the Employer will provide the Practitioner with the names and amounts of the accounts receivable including, but not limited to, any aging accounts receivables report, any overpayments due to patients or third (3rd) party payors, plus any unallocated payments on the date of termination for the Practitioner's Services rendered during the term of this Agreement. Additionally, at reasonable times and with written request to the Employer, the Practitioner shall have privilege to access and obtain verification of payments owed to the Practitioner or any payments owed to the Employer under this Agreement.

XXXII. Right of Offset. In the event of termination of this Agreement for any reason, the Employer shall be entitled to withhold any amounts due to the Practitioner under this Agreement and apply any such amounts withheld against any obligations owed to the Employer by the Practitioner. The Practitioner shall receive a credit on any obligations to which such withheld amounts are applied.

XXXIII. Notices. Upon notice of termination by either the Employer or the Practitioner, the Employer shall:

- a.) Timely assist the Practitioner in preparing the Practitioner's notification to patients as required by State, Federal, and local laws;
- b.) Timely assist the Practitioner in completing any course of treatment in order to not abandon a patient; and
- c.) Provide the Practitioner with the names and addresses of any third (3rd) party payors that the Employer has billed for the Practitioner's professional services.

XXXIV. Necessary Terms. The Parties acknowledge and agree that (i) the covenants and restrictions contained in this Agreement are necessary, fundamental, and required for the protection of legitimate business interests of the Employer; (ii) such covenants and restrictions relate to matters which are of a special, unique, and extraordinary character; (iii) such covenants and restrictions are reasonable as to the time limits, geographical area and scope of activity to be restrained; (iv) such covenants and restrictions do not impose a greater restraint than is necessary to protect the goodwill or other business interests of the Employer; and (v) a breach of any such covenants or restrictions will result in irreparable harm and damages to the Employer, which cannot be adequately compensated by a monetary award. Accordingly, the Parties expressly agree that in the event of an actual or threatened breach by the Practitioner of the obligations not to disclose or use Confidential Information or to solicit or compete contained in this Agreement, the Employer shall be entitled to a temporary restraining order and/or an injunction to specifically enforce the provisions of this Agreement. Furthermore, nothing herein shall be construed as prohibiting compensation to the Employer for such breach or threatened breach, including the recovery of damages from the Practitioner and for reasonable attorneys' fees.

XXXV. Due Diligence. Practitioner will acquire, at the outset and during the course of the Practitioner's employment with the Employer, certain valuable, proprietary, and confidential information concerning the Employer, including, but not limited to, the

patients of the Employer; the services provided by the Employer; the referring practitioners, health insurers, third (3rd) party payors, employers, and employees with which the Employer has relationships; the business operations of the Employer, including organizational documents, employment and independent contractor agreements, vendor contracts, accounting methodologies, policy and procedure manuals, forms, and protocols; third (3rd) party payor contracts; policies, trademarks, service marks, and designs; the clinical aspect of the Employer, including protocols, policies and procedures, patient lists, and clinical trials; documentation relating to the provision of services performed hereunder; and other copyrighted, patented, trademarked, or legally protectable information that is confidential and proprietary to the Employer (all of which is referred to as "Confidential Information"), the revelation to a third (3rd) party of which revelation to a third (3rd) party would damage would damage the Employer's practice, goodwill, and competitive position of the Employer. Additionally, the Practitioner will acquire at the outset access to and the benefit of the substantial positive name recognition and goodwill of the Employer and the Employer's favorable relationships with patients, referring practitioners, health insurers, third (3rd) party payors, employers, and employees. The Practitioner is entering into this Agreement for, among other purposes, the purpose of making and binding the Practitioner to the covenants regarding confidentiality, non-solicitation, and non-competition contained in this Agreement and without such agreement of the Practitioner to be so bound, the Employer would not agree to permit the Practitioner to gain access to and reap the benefits of such name recognition, goodwill, and relationships.

XXXVI. Governing Law. This Agreement shall be interpreted, construed, and governed in accordance with the laws in the State of _____. Exclusive venue for any actions arising under this Agreement shall be a court of competent jurisdiction within the Practitioner's County within the aforementioned State.

XXXVII. Authority to Contract. Each party represents and warrants to the other Party that (i) the execution of this Agreement has been duly authorized by such Party, (ii) the Party's representative executing this Agreement on its behalf is duly authorized to do so, and (iii) this Agreement is the binding obligation of such Party, enforceable against such Party in accordance with its terms, except as enforceability may be restricted, limited, or delated by applicable bankruptcy or other laws affecting creditors' rights generally and except as enforceability may be subject to general principals of equity or other legal principals.

XXXIII. Notices. Any and all notices required or permitted to be given under this Agreement shall be sufficient if furnished in writing and personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, to the Parties' respective mailing addresses as mentioned in Section I of this Agreement.

XXXIX. Modification. This Agreement shall not be modified or amended except by a written document executed by both Parties to this Agreement, and such written modification(s) shall be attached to this Agreement.

XL. Assignment. If the Employer assigns its rights under this Agreement, the Practitioner shall have sixty (60) days within which to elect to continue working under the terms and conditions of this Agreement or to terminate the Agreement.

XLI. Third Party Rights. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies on any persons other than the Parties and their respective successors and permitted assigns, nor is anything in this Agreement intended to release or discharge the obligation or liability of any third (3rd) persons to any party, or to give any third (3rd) persons any right of subrogation or action against any party.

XLII. Waiver. No waiver by either of the Parties of any failure by the other Party to keep or perform any provision, covenant, or condition of this Agreement shall be deemed to be a waiver of any proceeding or succeeding breach of the same or any other provision, covenant, or condition. All rights and remedies granted or referred to in this Agreement are cumulative; resort to one shall not preclude resort to another or any other right or remedy provided by law.

XLIII. Headings. The headings and section titles set forth in this Agreement are for convenience only and shall have no bearing whatsoever on the actual content of this Agreement.

XLIV. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument, with one counterpart being delivered to each party. In making proof of this Agreement, it shall not be necessary to produce or account for more than one (1) such counterpart containing the signatures of the Parties.

XLV. Additional Documents. Each of the Parties shall execute any document or documents that may be reasonably requested from time to time by the other Party to implement or complete such Party's obligations under this Agreement.

XLVI. Attorney's Fees. In any action brought to interpret or enforce the terms and conditions of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and court costs in addition to any other relief that may be awarded or granted.

XLVII. Impossibility of Performance. Neither Party shall be liable nor deemed to be in default for delay or failure in performance under this Agreement or other interruption of services deemed to be a result, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failures of transportation, or any other event not caused by, or beyond the reasonable control of, the Party.

XLVIII. Severability. In case any one (1) or more of the terms or provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement, and this Agreement shall be construed as if such invalid,

illegal, or unenforceable provision had never been contained in this Agreement so long as such deleted provision does not materially adversely affect the benefit of the bargain for a Party.

XLIX. Compliance with Laws. The Parties enter into this Agreement with the intent of conducting their relationship in full compliance with applicable Federal, State, and Local laws including, but not limited to, the Medicare/Medicaid anti-fraud and abuse statutes and regulations, the Health Insurance Portability and Accountability Act of 1996, as amended, and any State Dental laws, statutes, or acts. Notwithstanding any unanticipated effect of any of the provisions in this Agreement, neither Party shall intentionally conduct itself, and shall take particular care to assure that no employee or agent of the respective Party conducts itself, under the terms and conditions of this Agreement in a manner that constitutes a violation of any law or in a manner that would jeopardize either Party's participation in any Federal or State healthcare program including, without limitation, Medicare or Medicaid. In the event any State or Federal laws or regulations, now existing or enacted or promulgated after the effective date of this Agreement, are interpreted by judicial decision, a regulatory agency, or legal counsel of the Employer or Practitioner in such a manner as to indicate that the structure of this Agreement may be in violation of such laws or regulations, Employer and Practitioner shall amend this Agreement as necessary within thirty (30) days unless a shorter time period is required by law or a government agency. To the maximum extent possible, any such amendment shall preserve the underlying economic and financial arrangements between the Employer and the Practitioner. If this Agreement cannot be amended to comply with such legal requirements and preserve the financial arrangement, then either Party may terminate the Agreement upon thirty (30) days' written notice unless a shorter period is required by law or a governmental agency.

L. Entire Agreement. This Agreement constitutes the sole and complete understanding of the Parties and supersedes any prior written or oral agreements or understandings between them concerning the subject matter of this Agreement. This Agreement and its attachments further contain the entire Agreement between the Parties concerning the subject matter of this Agreement. There are no representations, warranties, covenants, promises, agreements, arrangements, or understandings, oral or written, express or implied, between the Parties which aren't fully expressed in this Agreement.

Practitioner's Signature _____ **Date** _____

Print Name _____

License Number _____

Employer's Signature _____ **Date** _____

Print Name _____ Title _____

Company Name _____

