

## **EMPLOYMENT AGREEMENT**

This Employment Agreement (the "Agreement") is dated and effective as of June 17, 2013 (the "Effective Date"), by and between MILLVILLE FAMILY DENTAL, PA, a New Jersey limited liability company (the "Company"), having its office at 2144 North 2<sup>nd</sup> Street, Millville, NJ 08332 and Todd Regnaert residing at 2816 Vine Road, Vineland, NJ 08360 (hereinafter referred to as the "Employee").

**WHEREAS**, Company is a professional association engaged in the practice of dentistry under the laws of the State of New Jersey; and

**WHEREAS**, Employee is duly licensed to practice as a dentist under the laws of the State of New Jersey; and

**WHEREAS**, the Company desires to employ the Employee, and the Employee desires to be employed by the Company under the terms, covenants and conditions set forth in this Agreement;

**WHEREAS**, the Employee acknowledges that he has had an opportunity to consider this Agreement and consult with an independent advisor or advisors of his choosing with regard to the terms of this Agreement, and enters into this Agreement voluntarily and with a full understanding of its terms;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth below, it is hereby covenanted and agreed by the Company and the Employee as follows:

### **1. EMPLOYMENT**

A. Company hereby employs Employee and Employee hereby accepts such employment as an employee in Company's practice of dentistry on the terms, covenants and conditions set forth in this Agreement.

B. In anticipation of Employee's employment hereunder, the Company has provided (or will provide) to Employee a provider application packet for completion (the "Provider Application"). As a condition of employment hereunder, Employee agrees to fully complete, execute and return the Provider Application to the Company by no later than fourteen (14) days following Employee's receipt of same (the "Provider Application Due Date"). The Provider Application Due Date may only be extended with the written consent of the Company. Employee further agrees to timely complete and execute any other paperwork reasonably required by the Company and to cooperate with the Company in completing the credentialing process.

C. In the performance of Employee's duties under this Agreement, Employee and Company shall comply with any and all applicable local, state and federal laws, statutes, rules and regulations.

D. The parties do not intend to establish any independent contractor relationship, joint venture or partnership, either expressly or by implication, between Company and Employee. Accordingly, by virtue of Employee's status as an employee of Company, Employee shall have no financial interest in the Company's accounts receivable, furniture, equipment, leasehold improvements, patient charts and records, and similar property. Further, Employee shall not, without the prior written consent of Company:

- (i) use any money belonging to Company or pledge Company's credit;
- (ii) release or discharge any debts due to Company;
- (iii) commit or permit to be committed any act whereby Company's property may be subject to attachment or seizure;
- (iv) cause Company to become a guarantor, surety or endorser, or give any note for any person or entity whomsoever; or
- (v) enter into any contract or obligation for, in the name of or on behalf of Company.

## **2. TERM OF THE AGREEMENT**

The Company hereby agrees to employ Employee, and Employee hereby agrees to serve, on the terms and conditions set forth in this Agreement, with the duties set forth in Section 3, for a term commencing on the earlier of July 1, 2013 or the date that the Company advises Employee that it has completed the credentialing process (the "Commencement Date") and terminating on June 30, 2014, unless otherwise terminated earlier pursuant to the terms hereof (the "Termination Date"). This Agreement shall automatically renew on the Termination Date and on each anniversary of the Termination Date for an additional 1-year period unless: (a) either party gives notice to the other party of such party's intention to not renew this Agreement, at least ninety (90) days prior to the Termination Date or anniversary of the Termination Date, if the term shall be extended; or (b) the Company or Employee has terminated the Agreement as defined and as provided herein.

## **3. DUTIES**

A. Employee shall provide services as a full-time employee of Company for the purpose of rendering dentistry services to Company's patients in a competent, efficient and effective manner and in a manner that meets the standards described in this Agreement. It is understood and agreed that Employee's duties may require that Employee provide services at any of the various offices of the Company and the Affiliates (as defined hereafter).

B. Employee shall devote to Company all of the time, attention and energy necessary for Employee to perform any and all duties assigned or delegated to Employee by Company.

C. Employee's duties as a dentist shall include but not be limited to:

(i) Rendering professional dentistry services consistent with the rules and regulations of the Board of Dentistry for the State of New Jersey and in a good faith and diligent and competent manner in accordance with the standards of the dental profession;

(ii) covering office hours; meeting reasonable administrative responsibilities; keeping and maintaining (or causing to be maintained) appropriate clinical records relating to all professional services rendered by employee; preparing and attending to all reports, claims and correspondence necessary to bill and collect for services provided; and

(iii) All other duties as reasonably requested by Company relating to the rendering of dentistry services.

D. Employee shall render professional dentistry services on behalf of the Company at such times and on such days as are determined by the officers of the Company.

E. Employee shall abide by all rules and regulations established by Company.

F. Employee shall conduct himself in a professional manner at all times, and shall discharge his duties and obligations under this Agreement in accordance with the bylaws, rules and regulations, policies and procedures applicable to Company.

G. Employee shall at all times comply with all federal, state and local laws and regulations, including but not limited to those laws and regulations governing or related to the provision of health care.

H. Employee shall at all times comply with the Company's corporate compliance plan and the Company's compliance program regarding the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA").

#### 4. COMPENSATION

For all services rendered by the Employee under this Agreement, the Company shall pay the Employee as follows:

A. The Credentialing Period. During the period beginning on the Commencement Date and continuing through the earlier of (i) the date that the Company advises Employee that it has completed the credentialing process or (ii) ninety (90) days after the Commencement Date (the "Credentialing Period"), the Company shall pay to Employee a flat rate of compensation (the "Flat Rate"). The Flat Rate shall be equal to Five Hundred Dollars (\$500.00) a day for each day Employee works or shadows a doctor at our office.

During the Credentialing Period the Company shall calculate and pay the Flat Rate in bi-weekly installments in accordance with the regular payroll practices of the Company (the "Bi-Weekly Flat Rate"). The Bi-Weekly Flat Rate shall be prorated for any partial weeks. The Company shall deduct from the Bi-Weekly Flat Rate all applicable federal, state and local taxes and other regular withholdings.

B. Base Compensation. During the period beginning on the conclusion of the Credentialing Period and continuing through the Termination Date of this Agreement, the Company shall pay to Employee compensation ("Base Compensation") in an amount equal to the product of (a) Gross Receipts (as defined hereafter), multiplied by (b) thirty percent (expressed as a decimal, i.e., .30). For example, if Gross Receipts equal \$100,000.00, then the Base Compensation payable to Employee hereunder shall equal \$30,000.00 ( $\$100,000.00 \times .30 = \$30,000.00$ ). For purposes of this Agreement, "Gross Receipts" shall mean an amount equal to the gross receipts collected by the Company that are attributable to professional services personally rendered by Employee pursuant to the terms of this Agreement, less refunds, returns and/or other adjustments applied against said receipts. During the term of this Agreement, the Company shall calculate and pay Employee's Base Compensation in bi-weekly installments in accordance with the regular payroll practices of the Company (the "Bi-Weekly Base Compensation"). The Company shall deduct from the Bi-Weekly Base Compensation all applicable federal, state and local taxes and other regular withholdings.

C. The Draw Period. During the period beginning on the conclusion of the Credentialing Period and continuing for a period of ninety (90) days thereafter (the "Draw Period"), the Company shall pay to Employee a draw against the Employee's Base Compensation (the "Draw") as follows:

(i) The Draw shall be in the amount of Five Hundred Dollars (\$500.00) for each full day worked (less all applicable taxes and withholdings) during the Draw Period. During the Draw Period the Company shall calculate and pay the Draw in bi-weekly installments in accordance with the regular payroll practices of the Company (the "Bi-Weekly Draw"). In addition to the Bi-Weekly Draw, during the Draw Period Employee shall be eligible for an Additional Payment (as defined hereafter). For purposes of this Agreement, the "Additional Payment" shall be the amount calculated, for a bi-weekly period, as follows: (i) Bi-Weekly Base Compensation, less (ii) Bi-Weekly Draw. In the event that the Additional Payment calculation produces a negative balance (i.e., Employee's Bi-Weekly Draw exceeds Employee's Bi-Weekly Base Compensation), there shall be no Additional Payment for that bi-weekly period and the negative balance shall be carried over to the next Additional Payment calculation and all following Additional Payment calculation periods until no negative balance remains.

(ii) For avoidance of doubt, it is expressly understood and agreed by the parties that, during the Draw Period, the Employee shall be guaranteed the Bi-Weekly Draw even if the Additional Payment calculation produces a negative balance. The Additional Payment (if any) shall be calculated and paid in bi-weekly installments in accordance with the regular payroll practices of the Company.

(iii) Employee shall be paid the Draw and Additional Payment (if any) solely during the Draw Period. Upon completion of the Draw Period and continuing through the Termination Date, Employee shall receive no Draw and no Additional Payment and shall be paid the Base Compensation in accordance with Paragraph 4B.

D. Business Expenses. The Employee shall be reimbursed by the Company for all reasonable business expenses incurred or paid by the Employee during the term of this Agreement in the performance of his services hereunder: (i) provided that such expenses constitute business deductions from taxable income for the Company and are excludable from taxable income to the Employee under the governing laws and regulations of the Internal Revenue Code; and (ii) to the extent that such expenses do not exceed the amounts allowable for such expenses in budgets that are approved from time to time by the Company. In order that the Company reimburses the Employee for such allowable expenses, the Employee shall furnish to the Company, pursuant to the Company's travel and expense policy, the appropriate documentation required by the Internal Revenue Code in connection with such expenses and shall furnish such other documentation and accounting as the Company may from time to time reasonably request.

## **5. EXTENT OF SERVICES**

The Employee will not participate in any other ventures or business activities which would impair Employee's ability to render services to the Company as set forth in this Agreement.

## **6. BILLING AND COLLECTION; CONTRACTS**

A. Employee hereby assigns to Company any right or claim to any and all fees, compensation and other income attributable to the provision of professional services by Employee during his employment with the Company, all of which shall be the property of, and promptly remitted to, the Company.

B. Employee shall participate in any third-party reimbursement or managed care program requested by Company and shall maintain all qualifications and credentialing criteria and carry out all responsibilities in connection therewith.

C. Employee understands and agrees that during his employment with the Company all contracts or arrangements entered into by Employee (or by Company involving the services of Employee) with any HMO, PPO, POS, managed care program, insurance company or similar program or entity shall belong to and be for the exclusive benefit of Company. Employee hereby assigns to Company all of his interest in all such contracts and arrangements and hereby grants Company an irrevocable power of attorney to enter into or terminate such contracts on Employee's behalf and grants to Company the right to bill for and in Employee's name under such contracts, as permitted by applicable law. No negotiations with respect to any such contracts or arrangements shall be conducted by Employee except as Company shall otherwise permit in writing.

D. The parties hereto agree to comply with the provisions of the Social Security Act relating to Medicare and the regulations promulgated pursuant thereto, as well as those provisions of federal and state law relating to Medicaid.

E. Except as directed by Company, Employee shall not bill any carrier, Medicare intermediary, any insurer, or any patient or beneficiary for any services performed by Employee during his employment with the Company.

F. Should any governmental or third-party payor audit result in a loss of revenue and/or penalties to Company due to fraudulent submissions or documentation made by or at the direction of Employee, Employee shall assume all financial responsibility of reimbursement to Company and shall indemnify and hold the Company harmless from and against any liability cost or expense incurred in connection therewith. This provision shall survive the termination, for any reason, of this Agreement.

## **7. MAIL**

A. Employee hereby agrees that any and all mail and other correspondence addressed to Employee, which arose out of the employment hereunder, shall belong to and is hereby assigned to the Company, whether said mail and correspondence is received during or subsequent to the termination of employment.

B. Employee shall not, at any time during nor subsequent to the termination of Employee's employment, divert nor attempt to divert any such mail and/or other correspondence from the Company.

C. Employee hereby authorizes Company to open any mail addressed to Employee, except for mail which is marked "Personal and/or Confidential", arising out of or by reason of the employment hereunder and hereby authorizes the Company to endorse and deposit in the Company's account any checks made payable to the Company for any services rendered by Employee while employed by the Company.

D. In the event of the termination of this Agreement for any reason, any mail received by the Company which is addressed to Employee and does not belong to the Company, as provided herein, shall be forwarded to Employee at Employee's last known address.

## **8. TERMINATION**

A. This Agreement, and the obligations of the Company and the Employee hereunder, shall, except to the extent otherwise provided, terminate at the expiration of the Agreement pursuant to its terms, or earlier in one of the following events:

(i) By mutual agreement of the parties, with the Termination Date being the date mutually agreed upon by the parties;

(ii) The resignation of Employee, provided that Employee provides at least ninety (90) days prior written notice;

(iii) The election of Company, without Cause (as defined hereafter), to terminate Employee's employment, provided that Company provides at least ninety (90) days prior written notice;

(iv) Upon a determination by the Company that the Employee is Disabled. For purposes of this Agreement, "Disabled" shall mean the inability of Employee to perform the essential functions of Employee's position due to a medically determinable physical or mental condition which has lasted (or is expected to last) for a period of six (6) months or more in any twelve (12) month period with or without reasonable accommodation. In the event Employee has any such disability which lasts (or is expected to last) for less than six (6) months in a twelve (12) month period, Employee shall be provided an unpaid leave of absence. Upon termination by the Company for Disability, the Termination Date shall be the date on which notice is given to Employee. This provision is not intended to supersede or deprive Employee of any rights to which he may be entitled in accordance with federal or state laws;

(v) The death of Employee with the Termination Date being the date of Employee's death; or

(vi) any event which constitutes "Cause" (as defined hereinafter), in which case the Company may terminate this Agreement immediately. Upon termination by the Company for Cause, the Termination Date shall be the date on which notice is given to the Employee.

B. For purposes of this Agreement, the term "Cause" shall include the following events or occurrences:

(i) the revocation, suspension, restriction or limitation of Employee's license to practice dentistry in the State of New Jersey;

(ii) Employee's failure to materially abide by rules and regulations of Company, including, but not limited to, the Company's compliance plan;

(iii) Employee's loss of eligibility to participate in any third party health plan with which Company does business;

(iv) Employee's (a) conviction of a felony or a crime of moral turpitude (it being understood by the parties that for the purposes of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of an alleged crime of moral turpitude shall be deemed a conviction), (b) participation in any conduct constituting fraud, theft, embezzlement, or gross negligence with respect to the Company, (c) participation in any dishonest conduct vis-à-vis the assets or income of Company, whether or not of a criminal nature, (d) breach of his duty of loyalty to the Company, or (e) participation in conduct having a reasonable prospect of materially damaging the reputation or integrity of Company.

(v) Employee's failure to perform Employee's dentistry duties in a competent and professional manner consistent with the professional and ethical standards of the dental profession;

(vi) Employee becoming uninsurable for professional liability insurance in the State of New Jersey at commercially reasonable rates;

(vii) any determination by any governmental agency, either civilly or criminally, that Employee has violated any rule or regulation pertaining to the Medicare or Medicaid programs;

(viii) the involuntary or voluntary liquidation or dissolution of the Company, the appointment of a receiver for Company, or the assignment of this Agreement for the benefit of creditors;

(ix) Employee's breach of any term, representation, warranty, covenant or condition of this Agreement (including without limitation, the conditions, representations and warranties set forth in **Section 1B** and **Section 15**), or any directive of Company, provided that Employee will be provided notice of such breach and afforded an opportunity to address and/or cure same in a manner acceptable to the Company within 10 days (if curable);

(x) Employee's second (2<sup>nd</sup>) breach of any term, representation, warranty (including without limitation, the representation and warranties set forth in **Section 15**) covenant or condition of this Agreement or any directive of Company;

(xi) the publication of false remarks, comments, statements, whether written or oral, which disparage the Company, an Affiliate (as defined hereafter), or any of their respective shareholders, officers or directors. For purposes of this Agreement, "Affiliates" shall mean any and all direct and indirect parents, subsidiaries and affiliates of the Company whether now existing or hereafter created (each entity individually referred to as "Affiliate" and collectively as "Affiliates"). An Affiliate shall include, but not be limited to, any entity that is directly or indirectly under common control with the Company;

(xii) the willful and malicious destruction of property (other than of a de minimis nature) belonging to the Company or any Affiliate;

(xiii) any other event customarily considered "just cause" grounds for the termination of employment.

C. In the event the Employee or the Company exercise their right to terminate Employee pursuant to **Section 8A(ii)** or **Section 8A(iii)** (as applicable) then Company may, in its sole discretion, require Employee to permanently vacate each of Company's offices and cease providing services on behalf of Company at any time prior to the expiration of the ninety (90) day period following notice of termination. Should the Company require Employee to vacate its offices and cease providing services in accordance



with the provisions of this **Section 8C**, the Termination Date shall be deemed to be the last day on which Employee provided services on Company's behalf.

D. Upon termination of the Employee's employment hereunder, this Agreement, and all rights and obligations of the parties hereunder, shall terminate, subject to the following qualifications and limitations:

(i) In the event the Employee's employment is terminated during the Credentialing Period, the Company shall be obligated to pay to the Employee any unpaid Bi-Weekly Flat Rate, subject to the limitations set forth in Section 8D(ii). In the event the Employee's employment is terminated after the Credentialing Period, the Company shall be obligated to pay to the Employee any unpaid Bi-Weekly Base Compensation (or if terminated during the Draw Period, any unpaid Bi-Weekly Draw and any unpaid Additional Payment (if applicable)) through the Termination Date, subject to the limitations set forth in Section 8D(ii);

(ii) If Employee's employment is terminated by the Company without Cause on or prior to the twelve (12) month anniversary of the Commencement Date, Employee shall not be obligated to return to the Company the Bi-Weekly Flat Rate compensation paid to Employee during the Credentialing Period. If Employee's employment is terminated on or prior to the twelve (12) month anniversary of the Commencement Date for any other reason, Employee shall be obligated to return to the Company the full amount of the Bi-Weekly Flat Rate compensation paid to Employee during the Credentialing Period. If Employee becomes obligated to return to the Company the full amount of the Bi-Weekly Flat Rate compensation paid during the Credentialing Period, then Employee authorizes the Company to deduct such amount from any monies owed by the Company to Employee. In the event that the Company fails to so deduct any such amount, or such deductions are insufficient to reimburse the Company for the total amount payable by Employee, Employee will repay the remaining amount owed within thirty (30) days of the Company's written demand for payment. In the event that Employee fails to repay all Bi-Weekly Flat Rate compensation in accordance with this Agreement and after written demand from the Company, and if the Company takes legal action against Employee to collect such amounts, Employee agrees to pay the Company for all costs and expenses incurred by the Company to collect such amounts from Employee, including court costs and reasonable attorneys' fees.

(iii) Sections 6, 7, 9, 11, 12, 13, 14, 15, 16 and 17 of this Agreement shall survive the Termination Date and shall remain in full force and effect as against the Employee in accordance with their terms.

## **9. PROFESSIONAL LIABILITY INSURANCE**

Employee shall be responsible for purchasing and maintaining for Employee professional liability insurance in such amounts as shall be determined by the Company, but in no event shall such coverage be less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate. Such insurance shall afford protection to Employee for all acts and omissions occurring during Employee's employment with the Company. Upon termination of Employee's employment, Employee

shall, at Employee's sole expense, secure and maintain such insurance policies or riders so as to ensure coverage for Employee's acts and omissions occurring during his employment with the Company, including, for example, continuing identical coverage without lapse through a continuance of the original policy, purchasing a "tail" with the original insurer or by purchasing a "prior acts" rider with a new company. Employee shall provide evidence of the required insurance coverage prior to the Commencement Date and at any time thereafter upon demand by the Company. To the extent Employee refuses to comply with the requirements of this Section 9, the Company may purchase such insurance and offset such purchase from any and all amounts owed to Employee by the Company, as well as be entitled to and seek any other remedies and damages in law or equity.

## 10. BINDING AGREEMENT

This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors and administrators, successors and assigns, except that the rights and obligations of the Employee hereunder are personal and may not be assigned without the Company's prior written consent. Any assignment of this Agreement by the Company shall not be considered a termination of the Employee's employment.

## 11. CONFIDENTIALITY

A. Employment Generally. In the course of Employee's employment with the Company, he will gain access to certain confidential information, inventions, works of authorship, and other types of proprietary subject matter that comprise valuable, special and unique assets of the Company's business, and Employee acknowledges and agrees that access to the foregoing is granted to him only for the purpose of enabling him to perform his duties for the Company and the Affiliates. The Company and its Affiliates have an identifiable interest in protecting their rights and ownership of the foregoing, as well as all intellectual property rights associated therewith (including, without limitation, its patents, copyrights, trademarks, and trade secrets).

B. Confidential Information. As used in this Agreement, the term "Confidential Information" means all information, not generally known, belonging to, or otherwise relating to the business of the Company, an Affiliate or their subscribers, licensors, licensees, vendors or partners, regardless of the media or manner in which it is stored or conveyed to Employee, that the Company has taken reasonable measures under the circumstances to protect from unauthorized use or disclosure. Confidential Information includes trade secrets as defined under the New Jersey Trade Secrets Act, N.J.S.A. 56:15-1, et seq., as well as other proprietary knowledge, information, know-how, non-public intellectual property rights including unpublished or pending patent applications and all related patent rights, manufacturing techniques, business plans or strategies, formulae, processes, discoveries, improvements, ideas, conceptions, compilations of data, and developments, whether or not patentable and whether or not copyrightable. For example and without limitation, Confidential Information may include information such as: (i) information relating to intellectual property, patents, trademarks, trade secrets; (ii) supplier lists, customer lists, patient lists; (iii) bidding procedures, job costing, production costs, commissions and

fees; (iv) accounts receivable reports; (v) referral sources, provider networks, patient information; (vi) non-public financial information, including forecasts, budgets, financial statements, studies, data and other information concerning the Company or its Affiliates and any of their actual or anticipated products or services, research or development, or any other information received in confidence; (vii) business and strategic plans and techniques, marketing and advertising plans and techniques, business concepts, acquisition plans and proposals; (viii) financing techniques and sources; (ix) source code, object code, software programs and subroutines, technical information, product information, plans, specifications, designs, methodologies, databases and database criteria, user profiles, scripts, algorithms, modules, features and modes of operations, internal documentation, and pricing; (x) the particular needs and preferences of the Company's business partners and their patients, and the Company's approaches and strategies for satisfying those needs and preferences; (xi) contracts, credit procedures and terms; (xii) research and development plans; (xiii) software, hardware and hardware configurations; (xiv) employment and personnel information (including, without limitation, the names, addresses, compensation, specific capabilities, job assignments and performance evaluations of Company or its Affiliates' personnel); (xv) information regarding, and used, in employee training; (xvi) information relating to employee stock ownership or entitlement; (xvii) information relating to Company or Affiliates' stock or assets or proposed or ongoing acquisitions or takeovers by or on behalf of Company or its Affiliates; and (xviii) other know-how. The foregoing are only examples of Confidential Information. If Employee is uncertain as to whether any particular information or material constitutes Confidential Information, he will ask the President of the Company or his delegate.

C. Exceptions to Confidential Information. Notwithstanding the definition set forth in Section 8B, Confidential Information does not include information that Employee can show by competent proof: (i) was generally known to the relevant public at the time of disclosure, or became generally known after disclosure to Employee through no breach of this Agreement; (ii) was known to Employee prior to receipt from the Company; or (iii) was independently developed by Employee or independent third parties without using the time, resources, or confidential information of the Company or its Affiliates; in each case, without breach by Employee or any third party of any obligation of confidentiality or non-use.

D. Protection of Confidential Information. Both during and following the termination, for any reason, and whether by Employee or the Company, of Employee's employment with the Company, Employee will hold in strict confidence all Confidential Information of the Company and its Affiliates. Except with the Company's prior written permission or in furtherance of Employee's duties for the Company, Employee will not, directly or indirectly, in whole or in part: (a) access, use, disclose, reproduce, copy, store, distribute, or misappropriate any Confidential Information; (b) reverse engineer, disassemble or decompile, misappropriate or otherwise attempt to gain unauthorized access to any Confidential Information (each of the foregoing, a "Prohibited Act"); or (c) take any action that may cause, or fail to take any action necessary to prevent causing, any Confidential Information (as defined above) or any other Development (as defined hereafter) to lose its protected and confidential character. Upon the termination of Employee's employment with

the Company, or upon any earlier request by the Company, Employee will promptly return to the Company all original and copies of documents, data or materials that exist in tangible form, of any nature, in Employee's possession, custody or control that contain Confidential Information (regardless of the medium in which such information is stored), and work with the Company to allow the Company to recover any intangible copies of the foregoing stored in magnetic, electronic, or optical form. To prevent the dissemination of any Confidential Information, Employee will not publish or distribute, or authorize or assist others to publish or distribute, any books, articles, films or other works (whether oral or written, in any form of media) directly or indirectly about the Company, without the prior written approval of the President of the Company or his delegate. Notwithstanding anything to the contrary, Employee is permitted to disclose Confidential Information that is required to be disclosed by him pursuant to judicial order or other compulsion of law, to the limited extent required to comply with such order, provided that Employee has given the Company prompt notice of the disclosure requirement, and that Employee fully cooperates with any efforts by the Company and/or an Affiliate to obtain and comply with any protective order imposed on such disclosure. Any information so disclosed will remain Confidential Information subject to all other provisions of this Agreement.

E. No Unfair Competition. In order to protect the Confidential Information of the Company and its Affiliates, Employee agrees that the sale or unauthorized use or disclosure of any of the Company's trade secrets and/or Confidential Information would constitute unfair competition with the Company whether the sale, use or disclosure occurs during Employee's employment or at any time thereafter.

F. HIPAA Obligations. Employee agrees to keep confidential all medical records and other information pertaining to patients of the Company and the Affiliates in conformance with all applicable federal, state and local laws, and all rules, regulations, policies and procedures of the Company and the Affiliates, including, without limitation, the privacy and security regulations, and policies and procedures, adopted under HIPAA.

## **12. COMPANY PROPERTY**

A. All Developments made by the Employee, either alone or in conjunction with others, at any time or at any place during the Employee's employment with the Company, whether or not reduced to writing or practice during such period of employment, shall be and hereby are the exclusive property of the Company without any further compensation to the Employee. In addition, without limiting the generality of the prior sentence, all Developments which are copyrightable work by the Employee are intended to be "work made for hire" as defined in Section 101 of the Copyright Act of 1976, as amended, and shall be and hereby are the property of the Company. "Developments" means any and all inventions, modifications, discoveries, designs, developments, improvements, processes, software programs, works of authorship, documentation, formulae, data, techniques, know-how, secrets or intellectual property rights or any interest therein that (i) relate to the business in which the Company is engaged or in which the Company intends to engage during Employee's employment with the Company, (ii) are created or improved in

whole or in part by using any Company resources, data, facilities or equipment, or (iii) are created or improved within the scope of Employee's employment.

B. The Employee shall promptly disclose the Developments to the Company. If any Development is not the property of the Company by operation of law, this Agreement or otherwise, the Employee will, and hereby does, assign to the Company all right, title and interest in such Development, without further consideration, and will assist the Company and its nominees in every way, at the Company's expense, to secure, maintain and defend the Company's rights in such Development. The Employee shall sign all instruments necessary for the filing and prosecution of any applications for, or extension or renewals of, letters patent (or other intellectual property registrations or filings) of the United States or any foreign country which the Company desires to file and relates to any Development. The Employee hereby irrevocably designates and appoints the Company and its duly authorized officers and agents as such Employee's agent and attorney-in-fact (which designation and appointment shall be deemed coupled with an interest and shall survive the Employee's death or incapacity), to act for and in the Employee's behalf to execute and file any such applications, extensions or renewals and to do all other lawfully permitted acts to further the prosecution and issuance of such letters patent, other intellectual property registrations or filings or such other similar documents with the same legal force and effect as if executed by the Employee. Employee waives all claims to moral rights in the Developments.

C. Attached hereto as Exhibit A is a list of all inventions, modifications, discoveries, designs, developments, improvements, processes, software programs, works of authorship, documentation, formulae, data, techniques, know-how, secrets or intellectual property rights or any interest therein made by the Employee prior to Employee's employment with the Company (collectively, the "Prior Inventions"), which belong to Employee and which relate to the business of the Company and which are not assigned to the Company hereunder or if no such list is attached, Employee represents that there are no such Prior Inventions. If in the course of Employee's employment with the Company, Employee incorporates into a Company product, process or machine a Prior Invention owned by Employee or in which Employee has an interest, the Company is hereby granted and shall have a non-exclusive, royalty-free, irrevocable, perpetual, transferable, worldwide license to make, have made, modify, use, sell and otherwise exploit such Prior Invention as part of or in connection with such product, process or machine, or any enhancements or extensions thereof.

D. All monies collected for services rendered by Employee, whether payment is made directly or indirectly, are the sole property of Company.

E. Employee agrees that, at the time of the termination of his employment with the Company (regardless of the reason and regardless of whether initiated by the Company or Employee) or earlier upon request by the Company, Employee will deliver to the Company all property of the Company and/or any Affiliate including, but not limited to, all materials, substances, models, software, prototypes and the like containing and/or relating to Confidential Information. Employee shall not retain any copies or reproductions (hard copy or electronic) of any Confidential Information or other property belonging to the Company or an Affiliate. If the Company elects in its sole discretion to request from

Employee a written document certifying Employee's compliance with this Section 12, Employee agrees that Employee will provide such a document to the Company within seven (7) days of any request by the Company and/or an Affiliate.

### 13. NON-COMPETE AND NON-SOLICITATION

A. Employee acknowledges that Employee's relationship with the Company will be one of trust and confidence and that there will be available to Employee patient records and Confidential Information of the Company and its Affiliates. In consideration of the compensation, training and experience Employee will gain as an employee of the Company and in light of Employee's familiarity with the patients of the Company and the Affiliates and the physicians and other referral sources within the community, Employee expressly agrees to each of the following:

(i) During his employment and during the two (2) year period following the termination of Employee's employment, for any reason, the following restrictions shall apply:

(a) Employee shall not, directly or indirectly, either in his own behalf or as a partner, shareholder, member, equity holder, officer, director, agent, consultant, employee or in any other individual or representative capacity, engage in, supervise, organize, invest in, nor carry on, or otherwise participate in any manner, with or without compensation, in the practice of dentistry or any other business being conducted by the Company or an Affiliate either on Employee's own behalf or on behalf of any person, company, firm, corporation or any other entity within a five (105) mile radius of: ~~(1) any facility or office owned or operated by the Company; or (2) any facility or office owned or operated by an Affiliate~~ where Employee provided services during Employee's employment with the Company;

(b) Employee shall not, directly or indirectly, aid or endeavor to solicit or induce any employees, consultants, independent contractors or advisers of the Company or an Affiliate (who have worked with the Company or Affiliate (as applicable) in any preceding twelve (12) month period) to leave their employment or end their relationship with the Company or an Affiliate (as applicable) and/or to accept employment or enter into a relationship with another person or entity;

(c) Employee shall not, directly or indirectly, hire, employ, contract with, partner with or otherwise engage or use the services of any current or former employees, consultants, independent contractors or advisers of the Company or an Affiliate (who have worked with the Company or an Affiliate (as applicable) in any preceding twelve (12) month period);

(d) Employee shall not, directly or indirectly, call upon, compete for, solicit, divert, accept business from or otherwise take away or interfere with any patient, doctor or other person or entity with a referring relationship with the Company or an Affiliate;

(e) Employee shall not, directly or indirectly, call upon, solicit, divert, or otherwise take away or interfere with any patient of the Company or an Affiliate;

(f) Employee shall not submit, solicit, encourage or discuss any proposal, plan or offer to acquire an interest in any of the Company's or an Affiliate's identified potential acquisition candidates; and

(g) Employee shall not disclose to any other person, firm, company or other entity the names and addresses of any of the patients of the Company or of the Affiliates;

(ii) During the Employee's employment with the Company, and at all times thereafter, the Employee will not, directly or indirectly, make any disparaging statements or other negative remarks, written or oral, about the Company, an Affiliate, their respective businesses and/or any of the services or products they provide.

B. Nothing herein shall preclude Employee from rendering services or products to the Company or an Affiliate or engaging in other legitimate business activities on behalf of the Company and/or an Affiliate and in furtherance of Employee's employment with the Company.

#### **14. REVIEW OF AGREEMENT; REASONABLE RESTRICTIONS; REMEDIES**

A. The Employee acknowledges and agrees that: (a) he has carefully read and understands all of the provisions of this Agreement and has had the opportunity for this Agreement to be reviewed by counsel; (b) that the duration, geographical scope and subject matter of Section 13 of this Agreement are reasonable and necessary to protect the goodwill, patient and/or customer relationships, legitimate business interests and Confidential Information of the Company and its Affiliates; and (c) he will be able to earn a satisfactory livelihood without violating this Agreement. In the event that any of the restrictions in the Agreement are found by a court having jurisdiction to be unreasonable, or overbroad as to geographic area or time, or otherwise unenforceable, the parties intend for the restrictions therein set forth to be modified by such court so as to be reasonable and enforceable and, as so modified by the court, to be fully enforced.

B. In the event Employee is in violation of the restrictions set forth in Section 13, Employee agrees that the time limitation thereof shall be extended for a period of time equal to the period of time during which such breach or breaches occur. In the event it is necessary for Company to seek relief in any court, then the time limitation shall be extended for a period of time equal to the pendency of such proceedings, including appeals, and excluding any periods during which the court or other tribunal has ordered the Employee to honor the covenants and the Employee has complied with the order

C. Employee acknowledges and agrees that any violation of the covenants of Sections 11, 12 or 13 of this Agreement would cause substantial, irreparable damage to

Company and/or its Affiliates and that it is impossible to measure in money the damages that would be caused to Company and/or Affiliates by such violation. Accordingly, Employee acknowledges and agrees that in the event that Employee violates any of these covenants, Company shall be entitled to injunctive relief to prohibit Employee from such action. Nothing herein shall be construed as prohibiting Company from pursuing any other remedy or remedies available for a breach or threatened breach, including recovery of damages from Employee. Employee further agrees that any breach of the terms of Sections 11, 12 or 13 is a material breach of the Agreement and that Employee shall pay to the Company all damages which arise from the breach (including but not limited to compensatory, incidental, consequential and lost profits).

D. Employee agrees that, in the event that Employee violates any of the terms of Sections 11, 12 or 13 of this Agreement, Employee shall be liable to the Company and/or its Affiliates (as appropriate) for the reasonable attorneys' fees and costs associated with any action at law or equity arising from or relating to said violation(s).

E. The existence of any claim or cause of action by Employee against Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by Company of the covenants set forth in Sections 11, 12 or 13.

## 15. REPRESENTATIONS AND WARRANTIES

A. Representations and Warranties. Company has entered into this Agreement in reliance on Employee's representations and warranties. Employee hereby makes the following representations and warranties to Company, each of which is material and each of which will be true as of the date hereof and will continue to be true during the term of this Agreement:

(i) Employee is a dentist in good standing, qualified and duly licensed to practice dentistry without restriction or limitation in the State of New Jersey. Employee is registered with the Federal Drug Enforcement Agency to prescribe controlled substances without restriction or limitation (the "**DEA Registration**").

(ii) Neither Employee's license to practice dentistry nor his DEA registration has ever been suspended, revoked, restricted, limited or terminated. Employee has never been subjected to the imposition of any type of disciplinary or corrective action taken by any medical licensing or certification authority, or any reprimand or monetary fine or penalty imposed by any medical licensing or certification authority relating to the rendering of medical services.

(iii) Employee is under no obligation, restriction or limitation, contractual or otherwise, to any other individual or entity that would prohibit or impede Employee from undertaking and performing the duties, responsibilities and obligations under this Agreement, including, but not necessarily limited to, non-competition, non-solicitation, or restrictive covenant obligations, and Employee is free to enter into and perform under this Agreement.



(iv) Employee: (a) will hold in strict confidence any confidential information and/or proprietary information and any trade secrets of Employee's current or former employers or any other person or entity to whom the Employee has an obligation of confidentiality regardless of whether Employee has a written agreement to keep such information confidential (collectively, any "Third Party Confidential Information"), (b) will not improperly use, disclose or copy any Third Party Confidential Information, and (c) represents and warrants that the Employee has not improperly used, disclosed or copied any Third Party Confidential Information prior to the date of this Agreement.

(v) Prior to the Commencement Date, Employee will have provided evidence to Company of adequate occurrence-based and/or claims-based liability insurance to insure against malpractice claims arising out of any and all occurrences Employee may have had prior to the Commencement Date. In the event Employee has obtained claims-based liability insurance, Employee will have provided evidence to Company of adequate "tail/prior acts" liability insurance acceptable to Company.

(vi) Employee has never been removed for cause (or resigned prior to removal for cause) from any provider panel of any managed care organization, indemnity insurer or other third-party payor, or independent practice association, physician organization, physician-hospital organization or other provider network.

(vii) Employee is not a party to any pending malpractice or other patient-related litigation, nor have any such litigations been threatened, nor are any proceedings threatened or pending against Employee before any professional licensing board.

(viii) Employee is not a party to any pending investigations or proceedings, nor have any such investigations or proceedings been threatened, the basis of which implicates Employee's professional competence.

(ix) Employee has never been indicted or convicted of: (a) any offense related to the delivery of an item or service under the Medicare or Medicaid programs; (b) a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service; (c) fraud, theft, embezzlement or other financial misconduct in connection with the delivery of a health care item or service; (d) obstructing an investigation of any crime referred to in this Section; or (e) the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(x) Employee has never been required to pay any civil monetary penalty under federal law regarding false, fraudulent or otherwise impermissible billing practices.

(xi) Employee has never been excluded from participation in the Medicare or Medicaid program.

(xii) Employee has not been subject to any investigation or proceeding that could lead to any of the events set forth in Section 15A (ii), (iii), (vi), (ix), (x) or (xi).

(xiii) Employee shall repay, in accordance with all applicable federal requirements, any federal assistance Employee received to pay his education. Employee agrees and understands that in the event that Employee does not fulfill Employee's obligations to repay federal assistance and the federal government obtains repayment through deductions from the Medicare payments due to Company from Employee's services, the Company may immediately offset such deductions against any compensation owed to Employee.

B. Reporting Obligation. Employee has an affirmative obligation as a condition of continued employment hereunder to report to Company any changes to any of the above representations and warranties.

## 16. ARBITRATION

Any and all disputes, controversies or claims arising out of or relating to this Agreement, Employee's employment and/or the termination of the employment relationship, with the exception of the Company's claims for injunctive relief, shall exclusively be submitted to and determined by final and binding arbitration before a single arbitrator of the American Health Lawyers Alternative Dispute Resolution Service ("AHLA"), or its successor, in accordance with the AHLA's (or its successor's) then current rules for the resolution of employment disputes. Employee understands that it is the intention of the parties to submit all disputes that arise between and among Employee and the Company and/or an Affiliate to arbitration and that "any dispute, controversy or claim" includes any claim that Employee might have against the Company arising out of the employment relationship or its termination, whether arising under the common law or any federal, state or local statute, including claims for discrimination, wrongful discharge, breach of contract, retaliation, harassment, defamation, invasion of privacy or negligence. Employee knowingly and voluntarily agrees and acknowledges that he is waiving any rights to bring such claims in court and is waiving any rights to a jury trial in any action or proceeding related to this Agreement, his employment relationship and/or the termination of the employment relationship. Any arbitration conducted pursuant to this Agreement shall be conducted in Ocean County, New Jersey.

## 17. GENERAL PROVISIONS

A. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever:

(i) the validity, legality, and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and

(ii) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

B. Headings. The section and paragraph headings of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction hereof.

C. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions hereof (whether or not similar) shall be binding unless executed in writing by the parties hereto nor shall any such waiver constitute a continuing waiver.

D. Notice. Any notice to be given hereunder shall be given in writing. Notice shall be deemed to be given when delivered by hand or transmitted by confirmed facsimile to, or five days after being mailed, postage prepaid, registered with return receipt requested, addressed to the parties as set forth in the Preamble to this Agreement, or to such other address as either party may specify to the other in writing.

E. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which shall constitute one and the same Agreement.

F. Ambiguities. The parties agree and acknowledge that this is a negotiated agreement and that the rule of construction that any ambiguities are to be construed against the drafting party shall not apply.

G. Further Actions. The parties agree to do, take, execute, acknowledge, if required, and deliver such further and additional acts, actions, documents, instruments or writings not specifically referred to herein as may be necessary, required, proper, desirable or convenient for the purpose of fully effectuating the provisions hereof.

H. Survival. The provisions hereof which by their nature or by the specific terms thereof require a party to perform or refrain from certain acts or actions, subsequent to the termination of this Agreement and/or termination of Employee's employment, shall survive such termination and shall be fully enforceable thereafter in accordance with the terms hereof.

I. Waiver. No duty or omission on the part of a party to assert or attempt to enforce any right or privilege hereunder shall be deemed a waiver of such right or privilege for any purpose to any extent whatsoever.

J. Indemnity. Employee agrees to indemnify, defend and hold harmless the Company and the Affiliates from and against any and all claims, liabilities, costs, and expenses (including reasonable attorneys' fees) arising from any prior or existing contract and/or other legal obligation between Employee and any third party. This includes but is not limited to Employee's violation of a restrictive covenant.

K. Governing Law. This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of New Jersey applicable to contracts to be performed therein, without giving effect to the conflict of law principles thereof.

L. Consent To Jurisdiction; Service Of Process. To the extent any suit, action or proceeding is brought which is not subject to the arbitration provisions set forth in Section 16 of this Agreement, Employee and the Company consent and hereby personally submit to the jurisdiction of the state or federal courts located in New Jersey and hereby agree not to assert, by way of motion, as a defense, or otherwise in any such suit, action or proceeding that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced by such courts. The covenants of this Section 17L shall survive the termination of this Agreement.

M. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the engagement of Employee by the Company and supersedes and replaces any and all prior understandings, agreements or correspondence between the parties.

N. Assignment. Employee shall not have the right to assign this Agreement or to delegate Employee's duties hereunder. Company shall have the right to assign this Agreement to an affiliated organization or to a successor organization.

**IN WITNESS WHEREOF**, the Company has caused this Employment Agreement to be signed by its duly authorized representatives, and the Employee has executed this Agreement, as of the day and year first above written.

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MILLVILLE FAMILY DENTAL, PA

TODD REGNAERT, DMD

By: \_\_\_\_\_/s\_\_\_\_\_

\_\_\_\_\_

Name: Daniel DiCesare, D.M.D.

Title: Owner/Director of Internal Development