

DENTAL PRACTICE PURCHASE AGREEMENT

BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

This bill of sale and assignment and assumption agreement is entered into on _____, 20____, between _____, a (the “**Buyer**”), and _____, a (the “**Seller**”).

The Seller owns and operates a dental practice known as _____ located at _____ (the “**Business**”).

The Seller has agreed to sell and the Buyer has agreed to purchase the Purchased Assets (as defined below).

Therefore, the parties agree as follows:

1. Sale of the Purchased Assets; Assumption of the Assumed Contracts. Subject to the provisions set forth in this agreement, as of midnight at the beginning of the date of this agreement (the “**Effective Time**”), the Seller hereby sells, conveys, assigns, and transfers to the Buyer the assets set forth on Schedule 1 (the “**Purchased Assets**”) free and clear of all encumbrances, and the Buyer hereby accepts the sale, conveyance, assignment, and transfer of the Purchased Assets and assumes the Buyer’s obligations under the contracts listed on Schedule 1 (the “**Assumed Contracts**”).

2. No Other Assumption of Liabilities. Except for the Assumed Contracts, the Buyer does not assume any obligation or liability of the Seller, and the Seller, as applicable, will continue to be liable for any and all liabilities of the Seller. The Buyer does not assume any liability under the Assumed Contracts arising before the Effective Time. The Seller will not be responsible for any liability that arises from the Buyer’s operation of the Business after the Effective Time.

3. Purchase Price. The purchase price is \$_____ (the “**Purchase Price**”). The parties agree to allocate the Purchase Price among the Purchased Assets for all purposes (including tax purposes) in accordance with the allocation schedule attached to this agreement as Schedule 3. The Buyer shall pay the Purchase Price as follows:

_____ deposit, which has already been paid, will be credited to the Buyer.

_____ will be paid at the Closing by wire transfer.

4. Representations and Warranties. The Seller represents and warrants to the Buyer that all of the representations and warranties set forth on Schedule 4 are true and correct in all respects as of the date of this agreement.

5. Covenant Not to Compete; Nonsolicitation; Confidentiality. As further consideration

for the Purchase Price, the Seller agrees to abide by the noncompetition, nonsolicitation, and confidentiality obligations set forth on Schedule 5.

6. Proration of Expenses. Any costs associated with operating the Business in the ordinary course, including but not limited to payroll expenses, lab fees, equipment expense, material costs, and utility or similar charges, payable with respect to the period in which the Effective Time falls, will be prorated based on the actual number of days applicable to the pre-Effective Time and post-Effective Time occupancy and use. The Seller will be liable for the prorated amount of all such expenses during the period through the Effective Time, and the Buyer will be liable for the prorated amount of all such expenses during the period after the Effective Time.

7. Survival. Except as otherwise provided in this agreement, the representations and promises of the parties contained in this agreement will survive (and not be affected in any respect by) the Effective Time for the applicable statute of limitations as well as any investigation conducted by any party and any information which any party may receive.

8. Further Actions. At any time and from time to time after the date of this agreement: (1) the Seller shall execute and deliver or cause to be executed and delivered to the Buyer such other instruments and take such other action, all as the Buyer may reasonably request, in order to carry out the intent and purpose of this agreement; and (2) the Buyer shall execute and deliver or cause to be executed and delivered to the Seller such other instruments and take such other action, all as the Seller may reasonably request, in order to carry out the intent and purpose of this agreement.

9. Governing Law; Venue. This agreement and the transactions contemplated hereby will be construed in accordance with and governed by the internal laws (without reference to choice or conflict of laws principles) of the State of _____. Any suit, action, or other proceeding brought against any of the parties to this agreement or any dispute arising out of this agreement or the transactions contemplated hereby must be brought either in the courts sitting in _____ County, _____, and by its execution and delivery of this agreement, each party accepts the jurisdiction of such courts and waives any objections based on personal jurisdiction or venue.

10. Assignment. No party may assign either this agreement or any of its rights, interests, or obligations hereunder without the prior written approval of each other party, except that the Buyer may assign any or all of its rights under this agreement, in whole or in part, without obtaining the consent or approval of any other party, (1) to any current or future affiliate of the Buyer, (2) to any entity into which the Buyer may be merged or consolidated, (3) in connection with any acquisition, restructuring, merger, conversion, or consolidation to which the Buyer may be a party, or (4) to a lender to the Buyer or its affiliates as collateral security for current or future obligations owed by the Buyer or its affiliates to the lender.

11. Notices. All notices and other communications under this agreement must be in writing and given by first class mail, return receipt requested, nationally recognized overnight

delivery service, such as Federal Express, or personal delivery against receipt to the party to whom it is given, in each case, at the party's address set forth in this section 11 or such other address as the party may hereafter specify by notice to the other parties given in accordance with this section. Any such notice or other communication will be deemed to have been given as of the date the applicable delivery receipt for such communication is executed as received or in the case of mail, three days after it is mailed.

If to the Seller : _____

Attention: _____

If to the Buyer _____

Attention: _____

12. Miscellaneous. This agreement contains the entire agreement between the parties with respect to the subject matter hereof and all prior negotiations, writings, and understandings relating to the subject matter of this agreement are merged in and are superseded and canceled by, this agreement. This agreement may not be modified or amended except by a writing signed by the parties. This agreement is not intended to confer upon any person or entity not a party (or their successors and permitted assigns) any rights or remedies hereunder. This agreement may be signed in any number of counterparts, each of which will be an original with the same effect as if the signatures were upon the same instrument, and it may be signed electronically. The captions in this agreement are included for convenience of reference only and will be ignored in the construction or interpretation hereof. If any date provided for in this agreement falls on a day which is not a business day, the date provided for will be deemed to refer to the next business day. Any provision in this agreement that is held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction will be ineffective only to the extent of such invalidity, illegality, or unenforceability without affecting in any way the remaining provisions hereof; provided, however, that the parties will attempt in good faith to reform this agreement in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. The Exhibits and Schedules to this agreement are a material part of this agreement and are incorporated by reference herein.

[Signature page follows.]

Each of the undersigned has caused this bill of sale and assignment and assumption agreement to be duly executed and delivered as of the date first written above.

BUYER:

By:

Name:

Title:

SELLER:

By:

Name:

Title:

Schedule 1

Purchased Assets

“**Purchased Assets**” means all of the assets of the Seller used or useful in the operation of the Business, including the following assets, but specifically excluding the Excluded Assets:

a) all books, patient records, mailing lists, customer lists, advertising and promotional materials, equipment maintenance records, and all other documents used by the Seller in the Business (whether in hard copy or electronic form);

b) all computers and related software, websites, office equipment, and office supplies used by the Seller in the Business;

c) fixtures and furniture used by the Seller in the Business;

d) phone system and any other technological equipment used by the Business;

e) the trade name “_____” and associated goodwill of the practice. Both parties understand that this associated goodwill is based on the relationships developed over time between the Seller and his/her patients. Thus the nature of this intangible asset can tremendously impact future earning for the Buyer and in turn change the value of the practice. It is inferred that the Seller will make all reasonable efforts to transfer the existing goodwill of the practice to the Buyer; in addition, take no intentional actions that would damage this goodwill;

f) the telephone number _____;

g) the internet domain name www._____.com and all variants owned by the Seller and/or used in the Business;

h) all social media accounts, including, without limitation Facebook, Google Plus, LinkedIn, Twitter and YouTube accounts, used in the Business;

i) the “Equipment,” as set forth on Exhibit A to this Schedule 1, all of which must be in good working condition. The Equipment value will be determined by a physical inspection performed within one month before the Effective Time. If the Equipment value after

inspection is more or less, then the Purchase Price will be adjusted accordingly;

“**Excluded Assets**” means the following:

- a) all cash of the Seller;
- b) all accounts receivable of the Seller outstanding at the Effective Time;
- c) _____.

“**Assumed Contracts**” means the following contracts: _____

Exhibit A to Schedule 1

Equipment

[Seller Please Attach a List of all Dental Equipment. Buyer Please See Attached List.]

Schedule 3

Tax Allocation Schedule

Equipment \$ _____
Furniture and Fixtures \$ _____
Supplies \$ _____
Noncompetition agreement \$ _____
Goodwill \$ _____
Accounts Receivable \$ _____
Total \$ _____

Schedule 4

Representations and Warranties

1. **Capitalization.** The only equity owner is the Seller and no person has any existing right to purchase any equity of the Seller.
2. **Consents.** The Seller is not required to obtain the consent of any party to a contract or any governmental entity in connection with the execution, delivery, or performance by it of this agreement or the consummation of the transactions contemplated in this agreement.
3. **Compliance with Laws.** With respect to the operation of the Business by the Seller before the Effective Time, the Seller and its employees and officers are and at all times have been in compliance in all material respects with each law applicable to the Seller or to the operation of the Business.

4. **Taxes.** The Seller has, in respect of the Business, filed all tax returns that are required to be filed and has paid all taxes that have become due under the tax returns or under any assessment that has become payable or for which the Buyer may otherwise have any transferee liability. All monies required to be withheld by the Seller from employees for income taxes and social security and other payroll taxes have been collected or withheld and either paid to the respective governmental bodies or set aside in accounts for such purpose.

5. **Litigation.** There are no claims or suits pending or, to the Seller's knowledge, threatened by or against the Seller (1) relating to or affecting the Business or Purchased Assets or (2) by or against any employee of the Seller relating to or affecting the Business or Purchased Assets. There are no judgments, decrees, orders, writs, injunctions, rulings, decisions, or awards of any court or governmental body to which the Seller is a party or is subject with respect to any of the Purchased Assets is subject.

6. **Financial Information; Ordinary Course.** The financial information the Seller provided to the Buyer is accurate, correct, and complete, is in accordance with the books and records of the Seller, and presents fairly the results of operation and financial condition of the Seller's Business. The Seller has operated the Business in the ordinary course before the Effective Time.

7. **Title; Condition of Purchased Assets.** The Seller has good and marketable title to all of the Purchased Assets free and clear of all liens and encumbrances. Pursuant to this agreement, the Seller conveys to the Buyer good and marketable title to all of the Purchased Assets, free and clear of all liens and encumbrances. The Inventory is salable in the ordinary course of business and consists of items that are current, standard, and first-quality. All equipment and signs are in working order and the premises will pass all inspections necessary to conduct the Business.

8. **Product Warranties.** The Seller provides no express or implied warranty, indemnification, or guarantee to any of its customers at any time in excess of the warranty provided by the applicable product manufacturer. Each product sold or service rendered by the Seller is and has been sold or rendered, as applicable, in conformity with all applicable contractual commitments and all express and implied warranties, and the Seller does not have any liability (and there is no basis for any present or future proceeding) for replacement or repair thereof or other damages, liabilities, or obligations in connection therewith.

Schedule 5

Covenant Not to Compete; Non-Solicitation; Confidentiality

1. The Seller covenants and agrees that: (1) for a period of ___ years following the Effective Time. The Seller will not own, manage, or be employed by (whether as an employee or independent contractor) a competing business within ___ miles of the Business; (2) or for a period

of ___ years following the Effective Date. Nor will the Seller recruit or employ (whether as an employee or independent contractor) any of the Business's current employees or independent contractors, without the Buyer's written consent.

2. The Seller shall hold the Confidential Information in confidence and shall not use the Confidential Information for any purpose other than in furtherance of the Buyer's operation of the Business without the Buyer's express written consent. The Seller and the Owner recognize that Confidential Information involves one of the Buyer's valuable and unique assets. "**Confidential Information**" means information directly or indirectly involving the Business that is not available or open to the public generally.

3. The Seller has carefully read and considered the provisions of this Schedule 5 and, having done so, agrees that the restrictions set forth herein are fair and reasonable given the terms and conditions of this agreement, the nature of the Seller's business, the area in which the Seller markets his/her services, and the consideration being provided pursuant to this agreement. In addition, the Seller specifically agrees that the length, scope, and definitions used in the covenant not to compete and other restrictions set forth in this Schedule 5 are fair and reasonable.

4. The Seller and the Owner each acknowledges and agrees that its breach of any of the agreements in this Schedule 5 would result in irreparable damage and continuing injury to the Buyer. Therefore, in the event of any breach or threatened breach of such agreements, the Seller and the Owner each agrees that the Buyer will be entitled to an injunction from any court of competent jurisdiction enjoining such person or entity from committing any violation or threatened violation of those agreements.

