

# DENTAL SERVICES AGREEMENT

This Agreement (hereinafter referred to as “Agreement”), made in Seattle, Washington by and between Fan, PLLC, a Professional limited liability company organized and existing under the laws of the State of Washington, (hereinafter referred to as the “Company”), and \_\_\_\_\_ (hereinafter referred to as “Dental Personnel”). Hereinafter, both Company and Dental Personnel are collectively referred to as the (“Parties”), and individually as a (“Party”).

**WHEREAS**, Company is in the business of providing anesthesia care for dental services (hereinafter referred to as “Placement Services”); and

**WHEREAS**, Dental Personnel wishes to engage Company to find suitable assignments and placements (hereinafter referred to as “Assignment(s)”) for Dental Personnel in Company’s client dental offices; and

**WHEREAS**, Dental Personnel has completed Company’s administration application process (hereinafter referred to as the “Application”) and Company is relying on the information Dental Personnel provided in that Application as well as the supporting documents Dental Personnel provided to Company to be eligible for placement by Company under this Agreement; and

**WHEREAS**, Dental Personnel is physically and mentally competent to fully fulfill the duties, responsibilities, and obligations as required of Company hereunder; and

**NOW, THEREFORE**, the Parties agree as follows:

1. **ENGAGEMENT**

1.1 Dental Personnel hereby requests Company to provide Dental Personnel with Assignments, and the Company hereby agrees to represent Dental Personnel in making Assignments, upon the terms and conditions set forth in this Agreement.

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2. **TERM OF ENGAGEMENT**

2.1 **Term.** The term of this Agreement shall commence on \_\_\_\_\_, \_\_\_\_\_ (hereinafter referred to as the “Effective Date”), and shall continue in full force and effect unless terminated as provided for in Section 7 of this Agreement.

3. **DUTIES AND RESPONSIBILITIES OF THE COMPANY**

3.1 **Placement Assignments.** Company agrees to offer to Dental Personnel Assignment opportunities to provide Professional Services, as that term is defined in Section 4.1, to Company’s clients as they become available, and based on the skill and training of Dental Personnel. While Company will continue to seek Assignments for Dental Personnel, Company cannot guarantee the success of any Assignment. Dental Personnel agrees to hold harmless Company for any failure of any Assignment regardless of the reason(s) for failure.

4. **DUTIES AND RESPONSIBILITIES OF THE DENTAL PERSONNEL**

4.1 **Professional Services.** Pursuant to this Agreement, Dental Personnel shall provide professional services to clients of Company (hereinafter referred to as “Professional Services”) which shall include those Professional Services for which they are qualified by their education, training and experience to perform. Dental Personnel will be offered Assignments as a dental assistant.

4.2 **Duties to Comply with Company Policy.** During the term of this Agreement, Dental Personnel shall be under the direct supervision of the supervising anesthesiologist for all Professional Services provided by Dental Personnel. Dental Personnel agrees to comply with the policies, standards, and regulations of Company from time to time established and those of any client(s) with whom Dental Personnel is assigned to work.

4.3 **Assignments.** Company shall disclose available Assignments to Dental Personnel as they arise. Upon acceptance of an Assignment, Dental Personnel shall be responsible to work during the agreed hours as well as to work all of the Assignment dates (hereinafter referred to as “Assigned Time”). Dental Personnel may refuse an Assignment from Company. Dental Personnel must contact Company within twenty-four (24) hours before Dental Personnel’s Assignment begins if there is a schedule conflict. Failure to do so may lead to termination of this Agreement, pursuant to Section 7 herein. Dental Personnel understands that Assignments are based on professional experience, educational background, licensing and certifications according to the requirements of Company and Company’s client(s). Dental Personnel acknowledges that, after jobs are assigned, assigned schedules and/or locations may be subject to change. Dental Personnel agrees to hold harmless Company and Company’s client(s) for lack of Assignments due to any

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reason including, but not limited to, schedule conflicts and/or deficient qualifications. Dental Personnel agrees to notify Company should a client alter the nature or duration of any Assignment. Company must approve the acceptance of any additional Assignment offered by any client of Company prior to the acceptance by Dental Personnel.

**4.5 Additional Time.** It is agreed by and between the Parties that Dental Personnel shall perform other duties under this Agreement, exclusive of the Assigned Time providing Professional Services to client(s) of Company and these duties are listed as follows:

- A.** Keeping and maintaining appropriate records relating to all Professional Services rendered by Dental Personnel under this Agreement, including but not limited to maintaining and returning daily timesheets to Company;
- B.** Preparing and attending to in connection with such services, all reports, claims and correspondence necessary and appropriate in the circumstances, all of which shall belong to Company;
- C.** Performance of all things reasonably desirable to maintain and improve Dental Personnel's professional skills, including but limited to, attending continuing dental education courses and participation in dental societies and peer review organizations;
- D.** Attending staff meetings as held from time to time by Company or Company's client(s); and
- E.** Other duties as may be reasonably directed by Company's Managing Members from time to time.

**4.6 Compliance with Non-Discrimination Policies.** Dental Personnel acknowledges and agrees that Dental Personnel will not engage in any acts that may be construed as discrimination against Company, Company's staff or any of Company's client(s), clients' staff and patients, and Dental Personnel agrees to abide by all laws related to discrimination.

**4.7 Compliance with Other Rules and Regulations.** Dental Personnel will provide Professional Services pursuant to this Agreement at all times in a manner that is in compliance with those rules and regulations in the State of Washington regulating the practice of dentistry, dental hygiene, Expanded Function Dental Auxiliaries ("EFDA") and dental assisting as applicable, and which acknowledges the American Dental Association Principles of Ethics and Code of Professional Conduct, the American Dental Hygienists' Association Bylaws and Code of Ethics, and the American Dental Assistants Association Policy on Principles of Ethics and Code of Professional Responsibility and any successor Code, Bylaw or similar document.

- 4.8** Right to Supervise and Control. Dental Personnel acknowledges and understands that Company's client(s) and/or its supervising dentist retain the right to control the manner and means of performing the work, including Professional Services, which Dental Personnel was assigned to perform on Company's client(s)' premises.
- 4.9** Drug Testing and Background Check. Dental Personnel agrees to submit proper proof of identity, pass random drug and/or alcohol testing and a criminal background check at any time upon the request of Company or Company's client. Requests must be completed within twelve (12) hours of Company's or Company's client's request.
- 4.10** Timesheets. Dental Personnel's timesheets must be kept by the dental personnel, and received by Company within twenty four (24) hours of the end of each work day acknowledging that day's Assignment has been completed. Timesheets will be accepted electronically, and must be received by Company within twenty-four (24) hours of the end of the work day in order for Dental Personnel to be timely paid for that workday. Dental Personnel acknowledges that a delay in turning in the daily timesheets may delay Dental Personnel's receipt of payment pursuant to 5.2 and 5.3.
- 4.11** Communication with Company. Dental Personnel shall at all times communicate with Company any schedule conflicts, offers of direct employment by any client of Company not previously disclosed to Company, whether permanent or temporary, and any incident that should occur while working on Company's clients' premises, termination by any clients of Company prior to the end of any Assignment, any availability or restrictions of availability upon completion of any Assignment, or any time Dental Personnel is also listed with another placement or referral agency. If Company leaves a message for Dental Personnel for future Assignments, it is expected by Company that it is to be returned within twenty-four (24) hours.
- 4.12** Credentialing and Licensure. Dental Personnel is required to maintain appropriate credentialing and licensure required for the Dental Personnel to legally provide Professional Services in the State of Washington. Dental Personnel agrees to provide Company with a copy of these documents upon request.
- 4.13** Automobile. Dental Personnel shall be solely responsible for his/her own transportation to and from any Assignment and shall assume all risk for Dental Personnel's travel to and from any Assignment. Dental Personnel shall at all times while acting pursuant to this Agreement in his/her own automobile operate such vehicle in compliance with the laws of Washington and all other applicable laws, including being validly insured.
- 4.14** Insurance. All supervising anesthesiologists shall maintain legally required malpractice insurance and be able provide the proof of insurance.

**5. PAYMENT FOR PROFESSIONAL SERVICES RENDERED DURING AN ASSIGNMENT** 5.1 Dental Personnel shall receive payment for Professional Services rendered based upon the number of hours of Assigned Time completed in an Assignment. Dental Personnel shall not be entitled to receive a guaranteed salary, nor is Company making any guaranty as to the amount of compensation that Dental Personnel shall receive pursuant to this Agreement. Dental Personnel's rate of payment shall be determined by Company, Company's client(s) and the Dental Personnel in advance of the Dental Personnel's acceptance of the Assignment of Professional Services. Dental Personnel shall not be paid for any time Dental Personnel uses to travel to or from an Assignment, which shall not be considered Assigned Time. Hourly rate negotiated will be \$30/hour.

**5.2 Payment to Dental Placement Personnel.**

**5.2.1** If the Company has contracted with the Company's client that Company will provide payroll services, then Company will make payment directly to Dental Personnel for their completed Assigned Time in any Assignment for such client as W-2 wages and withhold all legally required federal, state and local income taxes from Dental Personnel's payment due, and pay all necessary employment taxes. Payments by Company pursuant to Section 5.2.1 shall be paid to Dental Personnel by direct deposit only into Dental Personnel's account as Dental Personnel directs. Dental Personnel shall be paid Dental Personnel's payment under this Agreement monthly, if paid pursuant to Section 5.2.1.

**5.2.2** If the Company has contracted with the Company's client that the client will take care of client's own payroll, then the client will pay Dental Personnel directly and will be responsible for tax withholdings and associated employment taxes.

**6. BENEFITS**

**6.1** Dental Personnel will not be eligible to participate in any benefit programs due to the per diem nature of this employment.

**7. TERMINATION**

**7.1 Termination With or Without Cause.** This Agreement may be terminated by either Company or Dental Personnel, with or without cause, upon fourteen (14) days advance written notice to the other Party. In the event of such a termination, Dental Personnel, if requested by Company, shall continue to render Professional Services and shall be paid for such Professional Services up to the effective date of termination.

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**7.2 Immediate Termination.** This Agreement may be terminated by Company immediately upon written notice to Dental Personnel based upon the occurrence of one or more of the following events:

- A.** In the event that Dental Personnel accepts a position for full-time placement; or
- B.** In the event that Dental Personnel shall be guilty of fraud, dishonesty or other acts of misconduct in the rendering of Professional Services, including theft, destruction of property, alcohol or chemical substance abuse or the Dental Personnel's suspected use of alcohol or any chemical substances while performing Dental Personnel's duties at Company's sole discretion pursuant to this Agreement or a positive drug or alcohol test; or
- C.** In the event that Dental Personnel shall be convicted of, or pleads guilty or no contest to, a misdemeanor under federal or Washington law related to the Professional Services or Dental Personnel's scope of practice or a felony of any nature; or
- D.** In the event disciplinary action is taken against Dental Personnel's dental license, dental hygienist license, EFDA registration or dental assistant's certificate in the State of Washington, to include probation, suspension or revocation of Dental Personnel's license, registration or certificate, as applicable; or
- E.** Upon the death of Dental Personnel; or
- F.** If applicable, Dental Personnel's license to prescribe all necessary narcotics and controlled substances is revoked by the Drug Enforcement Agency; or
- G.** Upon Dental Personnel's failure to fulfill Dental Personnel's obligations hereunder as a result of a disability for a period of ninety (90) consecutive days, unless prohibited by law; or
- H.** Dental Personnel's failure to comply with any of the terms of this Agreement, and including failure of Dental Personnel to perform its obligation under this Agreement; or
- I.** Company's receipt of several complaints, or the receipt of a singular egregious complaint, from any of Company's clients regarding the Dental Personnel's performance of any Assignment; or
- J.** Dental Personnel fails to show for an Assignment without acceptable advance notice to Company.

**7.3 Termination by Mutual Agreement.** This Agreement may be terminated at anytime by the mutual agreement of the Parties.

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**8. PATIENT FILES, RECORDS AND BUSINESS RECORDS**

**8.1 Ownership of Patient Records.** All patient records, radiographs, or other personal and regular files concerning patients of Company's client(s) (hereinafter, referred to as "Patient Record(s)") shall belong to and remain the property of Company's client(s).

**8.2 Confidentiality of Patient Records.** Dental Personnel acknowledges and agrees that at all times Dental Personnel shall comply with all laws affecting the Patient Records and the information contained therein, including, but not limited to, HIPAA regulations. Dental Personnel further agrees to maintain the confidentiality of any and all protected health information ("PHI") of patients that Dental Personnel may access, use or disclose while providing Professional Services at the office of any of Company's clients, even after Dental Personnel's employment or engagement with Company has terminated. Dental Personnel agrees to execute any separate Confidentiality Agreements with Company requested by Company.

**9. NON- SOLICITATION, NON-DISCLOSURE AND NON-INTERFERENCE**

**9.1 Non-Solicitation of Employees.** Dental Personnel agrees that, during the Term of this Agreement and for a period of one (1) year following the expiration of this Agreement for any reason (hereinafter referred to as the "Restrictive Period"), Dental Personnel will not hire, or either directly or indirectly solicit or entice to leave Company, any of the employees of Company or other Dental Personnel who have engaged Company at the time of, prior to, or at any time after the termination of Dental Personnel's engagement with Company for any reason.

**9.2 Non-Disclosure and Confidentiality.** Dental Personnel recognizes and acknowledges that the list of Company's client(s)' patients, patients' files and records are a valuable and unique asset of Company's client(s) business and Dental Personnel agrees that Dental Personnel shall not at any time divulge, communicate, use to the detriment of Company, or Company's clients, or for the benefit of any other business, firm, person, partnership or corporation, any confidential information or data of Company, including, but not limited to, patient lists and patient information, financial information of Company and Company's clients and practice policies and procedures of the business. Furthermore, Dental Personnel agrees that Dental Personnel shall not make any claim or right of ownership at any time after the expiration or termination of this Agreement for any reason, or use such information for personal gain. There shall be no time limit associated with this Non-Disclosure provision and it shall be viewed as indefinite in time.

**9.3 Business Contracts.** Dental Personnel agrees that while engaged by Company and for a period of one (1) year after the last day Dental Personnel shall have provided Professional Services for any of Company's clients. Dental Personnel will not take

any actions to interfere or alter Company's contractual relationship with Company's clients including, but not limited to, accepting permanent placement with a client of Company without Company's consent or knowledge.

**9.4 Enforcement of Restrictions.** Company may enforce the terms of these provisions, inclusive of all provisions of Sections 9.1, 9.2 and 9.3 (hereinafter collectively referred to as "Covenants") by injunctive relief by a court of competent jurisdiction without the necessity of posting bond and shall have the right to pursue any and all damages which are available to Company in both law and equity, including costs expended herein and reasonable attorney fees. Dental Personnel consents to the granting of such remedy, agrees not to assert the adequacy of money damages as a defense, and agrees that such remedy shall be cumulative not exclusive, and in addition to any other available remedies.

**9.5 Court Authority to Sever Provisions; Continued Validity.** Should any of the provisions contained in this Section 9, including but not limited to the Covenants, be held invalid or unenforceable, such portion shall be severed and the remaining portions of the covenant shall remain valid and enforceable in the event that a court of competent jurisdiction determines by final judgment that the scope or time period of the Covenants specifically set forth herein are too broad to be capable of enforcement and said court is authorized to modify said Covenants and enforce such provisions as to scope and time as the court deems fair and equitable.

**9.6 Dental Personnel's Claim Is Not a Defense.** The existence of any claim or cause of action by Dental Personnel against Company (whether or not derived from or based on this Agreement and Dental Personnel's employment with Company) shall not constitute a defense to Company's enforcement of any covenant, duty or obligation of Dental Personnel in this Section 9.

**10. SEVERABILITY**

**10.1** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

**11. NO WAIVER**

**11.1** No provisions of this Agreement may be waived except by an agreement in writing signed by the waiving party. A waiver of any term or provision of this Agreement shall not be construed as a waiver of any other term or provision.

**12. ENTIRE AGREEMENT AND FURTHER MODIFICATIONS**

**12.1** This document contains the entire Agreement between the Parties and supersedes any and all prior understandings or agreements between them respecting the subject

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matter. No changes, alterations, modifications, additions, or qualifications to the terms of this Agreement shall be made or be binding unless made in writing and signed by each of the Parties.

**13. CONSTRUCTION**

**13.1** This Agreement shall be interpreted under and governed by the laws of the State of Washington.

**14. DESCRIPTIVE HEADINGS**

**14.1** The descriptive headings of the several sections of this Agreement are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provisions hereof.

**15. ASSIGNMENT**

**15.1** The rights and the obligations of Dental Personnel under this Agreement shall not either severally or jointly be assignable by Dental Personnel. The Agreement may be assignable by Company.

**16. GRAMMATICAL USAGE**

**16.1** In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural wherever the text so requires.

**17. BINDING EFFECT**

**17.1** The covenants, terms, conditions, provisions, understandings, representations and warranties in this Agreement, or in any renewals, modifications, exhibits, schedules, riders or addendum thereof, shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the respective Parties hereto as if they were in every case named and expressed, and wherever reference is made to any of the Parties hereto, it shall be held to include and apply also to the heirs, executors, administrators, successors and assigns of such Party, as if in each case and every case so expressed.

**18. FURTHER DOCUMENTATION**

**18.1** The Parties agree to execute and deliver any instruments in writing necessary to carry out any agreement, term, condition, representation, warranty or assurance in this Agreement, whenever occasion shall arise and request for such instruments shall be made.

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**19. NOTICES**

**19.1** Any and all notices, designations, consents, offers, acceptances or other communication provided for herein shall be given in writing by certified mail or by personal delivery by courier service. In the event a return receipt is not returned, notice shall have been received three (3) days after mailing or at the time of personal delivery.

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**20. COUNTERPARTS**

**20.1** This Agreement shall be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**21. REVIEW BY COUNSEL**

**21.1** Dental Personnel acknowledges that Dental Personnel had the opportunity to consult with an attorney regarding the terms and conditions herein.

**22. INDEMNIFICATION**

**22.1** Dental Personnel agrees to indemnify and hold Company harmless regarding any losses or claims, including costs, expenses and reasonable attorney fees, arising as a result of Dental Personnel's actions, inactions, obligations, or Dental Personnel's provision of any services, including but not limited to, any and all Professional Services, pursuant to this Agreement.

**23. TIME TO BE OF THE ESSENCE**

**23.1** It is expressly agreed that time shall be of the essence of this Agreement.

**24. FULL AUTHORITY AND CAPACITY**

**24.1** Dental Personnel warrants that Dental Personnel is legally able to enter into this contractual agreement and that Dental Personnel is not under any legal restriction or legal disability that would prohibit Dental Personnel from carrying out Dental Personnel's responsibilities under the Agreement.

**24.2** Anthony Fan has full requisite authority and power as the Managing Member of Company to enter into this Agreement on behalf of the Company.

**25. MEDIATION**

**25.1** In the event that a dispute arises out of or relates to this Agreement, or the breach thereof, and, if the dispute cannot be settled through negotiation, the Parties agree first to attempt, in good faith, to settle the dispute by mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. The costs of any such mediation, including the mediator's fees, shall be borne equally between the Parties. The mediation shall be conducted in compliance with the Washington State Law.

**25.2** Notwithstanding the foregoing regarding mediation, the Parties agree that nothing shall be construed to prevent the Parties from seeking injunctive relief for immediate and irreparable harm in such circumstances where such equitable relief is necessitated and no immediate adequate remedy at law is available, including but not limited to circumstances involving breach of a covenant not to compete.

26. **UNRESTRICTED**

26.1 Dental Personnel hereby agrees, represents and warrants that Dental Personnel is not a party to a written employment agreement or any other agreement with any other person or entity which would prevent Dental Personnel from being employed by Company or otherwise carrying out the terms under this Agreement.

27. **NO VIOLATION**

27.1 No Party shall be deemed to be in violation of this Agreement if prevents from performing any obligations hereunder by reason of disability, acts of God or other acts of war, flood or storm, strikes, epidemics, and the like beyond its control; nor shall a Party be required to act in violation of law or regulation.

**IN WITNESS WHEREOF**, all of the foregoing Parties have signed their names on the date indicated below.

**FAN PLLC**

Company

By:

\_\_\_\_\_  
Anthony Fan

\_\_\_\_\_  
Date

\_\_\_\_\_  
Dental Personnel

\_\_\_\_\_  
Date