THIS AGREEMENT IS SUBJECT TO ARBITRATION; HOWEVER, THE TERMS OF THIS AGREEMENT, RATHER THAN THE PROVISIONS OF SOUTH CAROLINA'S ARBITRATION ACT SHALL APPLY TO ALL ARBITRATABLE DISPUTES

MANAGEMENT SERVICE AGREEMENT

between

ROLAND K. FULCHER, D.M.D., P.A.,
a South Carolina professional association

and

NEW IMAGE ORTHODONTIC GROUP, INC.,
a Georgia corporation

Dated April 30, 1997

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MANAGEMENT SERVICE AGREEMENT

THIS MANAGEMENT SERVICE AGREEMENT (this "*Agreement*") is entered into on April 30, 1997, by and between ROLAND K. FULCHER, D.M.D., P.A., a South Carolina professional association ("*Practice Group*"), and NEW IMAGE ORTHODONTIC GROUP, INC., a Georgia corporation ("*Manager*"), with reference to the following facts:

(A) Practice Group is an individual or group orthodontic practice that provides orthodontic care to the general public;

(B) Manager's business is managing and administering orthodontic practices, and furnishing orthodontic practices with appropriate facilities, equipment, supplies, support services and administrative support staff; and

(C) Practice Group wishes to obtain such services from Manager so as to permit Practice Group to devote its concentrated and continuous efforts to the rendering of orthodontic services to its patients.

(D) The parties acknowledge that all provisions of this Agreement are intended to be applicable to the combined orthodontic practices of Practice Group and Ronald B. Cooper, D.D.S., P.A. ("*Cooper PA*"), the latter of which was assigned to Practice Group as of the date hereof.

THEREFORE, in consideration of the mutual covenants contained in this Agreement, Practice Group and Manager agree as follows:

ARTICLE 1. RELATIONSHIP OF THE PARTIES

Section 1.1. Independent Relationship. Practice Group and Manager intend to act and perform as independent contractors, and the provisions of this Agreement are not intended to create any partnership, joint venture, agency or employment relationship between the parties. Each party shall be responsible for and shall comply with all state and federal laws pertaining to it, including, without limitation, employment taxes, income withholding, unemployment compensation contributions and other employment-related statutes.

Section 1.2. Responsibilities of the Parties. Manager shall provide Practice Group with offices and facilities, equipment, supplies, support personnel and management and financial advisory services, as more specifically provided in this Agreement. Practice Group shall be responsible for all issues related to the professional, clinical and ethical aspects of its orthodontic practice. Practice Group, through its orthodontists, shall also be responsible for and shall have complete authority, responsibility, supervision and control over the provision of all orthodontic services and other professional health care services performed for patients. All orthodontic

diagnoses, treatments, procedures and other professional health care services shall be provided and performed exclusively by or under the supervision of Practice Orthodontists (as defined in Section 7.4). Manager shall have and exercise absolutely no control or supervision over the provision of orthodontic services, nor shall Manager exercise control over or interfere with the orthodontist-patient relationship, which shall be maintained strictly between Practice Orthodontists and their patients.

Section 1.3. Internal Practice Group Matters. Matters involving the internal management, control or finances of Practice Group, including, without limitation, tax planning, investment planning and, if applicable, the allocation of professional income among Practice Group orthodontists, shall remain the sole responsibility of Practice Group and its owner or owners.

Section 1.4. Patient Referrals. This Agreement is not intended to induce or encourage the referral of patients, or the payment directly or indirectly of any remuneration, to Practice Group in violation of applicable laws, rules or regulations. The benefits to Practice Group under this Agreement do not require, are not payment or inducement for, and are not in any way contingent upon, the admission, referral or any other arrangement for the provision of any item or service offered by Manager to any of Practice Group's patients.

ARTICLE 2. FACILITIES TO BE PROVIDED BY MANAGER

Section 2.1. Office Facilities. Manager shall provide Practice Group with the use of the "Office Facilities" (as defined below), together with all costs of repairs, maintenance, improvements (as approved by the Governance Board), utility (telephone, electric, gas and water) expenses, normal janitorial services, refuse disposal, real or personal property lease payments and expenses, tax assessments and all other costs and expenses reasonably incurred in conducting operations in the Office Facilities during the term of this Agreement. Manager shall provide for the proper maintenance and cleanliness of the Office Facilities and the equipment, furniture and furnishings (as approved by the Governance Board) located in the Office Facilities. As used in this Agreement, "*Office Facilities*" means the orthodontic offices and other sites of orthodontic business operations now or hereafter utilized by Practice Group, as approved by Manager and Practice Group in advance of such utilization. *"Office Facility"* means any one of the Office Facilities. The initial Office Facility or Office Facilities are described in Exhibit 2.1. The parties hereto expressly acknowledge that the Office Facilities include those Facilities previously operated by Cooper PA.. Nothing in this Section is intended to require Manager to provide any services with respect to the Office Facilities if such services are required to be provided by the landlord under a lease for a specific property.

ARTICLE 3. DUTIES OF THE GOVERNANCE BOARD

Section 3.1. Formation and Operation of the Governance Board. The parties shall establish a Governance Board (the *"Governance Board"*) to develop, advise and make recommendations to the Manager with respect to management and administrative policies for the overall operation of the Practice Group's practice. The Governance Board shall consist of two (2) members. Practice Group shall designate, in its sole discretion, one (1) member of the

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Governance Board. Manager shall designate, in its sole discretion, one (1) member of the Governance Board. The Governance Board may act by unanimous written consent or by meeting. If action is to occur by meeting, each member shall receive at least three (3) business days advance written notice of such meeting. The requirement of such notice may be waived by a member in writing or by attendance. For action to be taken by the Governance Board at a meeting, both of the members of the Governance Board must be present. Except as may otherwise be provided in this Agreement, any action of the Governance Board taken at a meeting shall require the approval of both members of the Governance Board, whether or not present at such meeting.

Section 3.2. Duties and Responsibilities of the Governance Board. The Governance Board shall have the following duties, obligations and authority:

(a) Capital Improvements and Expansion. Any proposed renovation and expansion plans and capital equipment expenditures with respect to Practice Group's facilities shall be reviewed by the Governance Board, and the Governance Board shall take into consideration such factors as economic feasibility and then-current market conditions in connection with such review. The Governance Board's recommendations with regard to such matters arising out of such review shall be communicated to the Manager for consideration by the Manager in connection with preparation of capital budgets.

(b) Patient Fees; Collection Policies. As a part of the annual operating budget process the Governance Board shall promulgate a fee schedule and approve a collection policy for all orthodontic and ancillary services rendered by Practice Group. Such fee schedule, and the anticipated results of such collection policy, shall be reflected in the budget.

(c) Provider and Payor Relationships. Decisions regarding the establishment or maintenance of relationships with institutional health care providers and third-party payors shall be made by the Governance Board.

(d) Strategic Planning. The Governance Board shall develop long-term strategic planning objectives and annual operating goals designed to achieve such long-term objectives. Such goals and objectives shall be communicated to the Manager for use in connection with the preparation of operating and capital budgets

(e) Orthodontist Hiring. The Governance Board shall recommend to the Manager the number of orthodontists required for the efficient operation of Practice Group's orthodontic practice. Practice Group shall be responsible for identifying and hiring any new or additional Practice Orthodontist, provided, however, that no Practice Orthodontist shall be hired without the Manager's prior written consent.

(f) Orthodontic Services. The Governance Board shall review and advise as to types of orthodontic services to be provided.

(g) Hours of Operation. Operating hours at the Office Facilities shall be determined by the Governance Board.

Section 3.3. Deadlocks of the Governance Board. If the Governance Board is deadlocked and cannot reach a decision on any matter that is the subject of Section 3.2 above,

such matter shall be presented to a Dispute Resolution Board, defined below, formed for the purpose of resolving such disputes. The "*Dispute Resolution Board*" shall be made up of five individuals, two designated by the Manager and three who are practicing orthodontists. Such orthodontists shall be designated by the Manager from among the members of the Clinical Board or from orthodontists who have become affiliated with the Manager under management service agreements, and such orthodontist members shall be removable by the Manager upon written notice to such effect to the subject orthodontist. Disputes shall be resolved in accordance with procedures to be adopted by the Dispute Resolution Board.

ARTICLE 4. CLINICAL BOARD

Section 4.1. Formation and Operation of the Clinical Board. The parties acknowledge that Manager has established a clinical board made up solely of orthodontists who have distinguished themselves in the practice of orthodontics, as determined by the Manager, in each case for not less than ten (10) years (the *"Clinical Board"*). The Clinical Board provides advice relating to clinical activities and the oversight thereof to Manager, Practice Group and other orthodontist groups to which Manager provides management services. Matters as to which such advice pertains includes credentialing and peer review, clinical trials, clinical protocols, grievance review, preventive health programs and utilization management. The Clinical Board has the discretion to form standing committees, which will be advisory in nature to the Clinical Board, for the purpose of addressing subjects to be determined by the Clinical Board. It is anticipated that committees will be formed to advise with respect to pricing, fee-for-service and managed care contracting, new business opportunities and information systems and data management. Manager agrees to keep confidential all information relating to peer and grievance review concerning Practice Group.

ARTICLE 5. THE BUDGET

Section 5.1. Budgets. (a) At least sixty (60) days prior to the commencement of each calendar year during the term of this Agreement after the first such calendar year (or partial calendar year), subject to the requirements of Article III hereof, Manager shall prepare and deliver to the Practice Group an operating and capital budget setting forth an estimate of revenues, expenses and capital expenditures for the upcoming calendar year.

(b) If the Practice Group has concerns about the budget, such concerns shall be communicated to the Manager within thirty (30) days of the Practice Group's receipt of the budget, and the Manager may address such concerns by revision or revisions to the budget.

Section 5.2. Revisions to Budget. If at any time circumstances indicate that the budget does not properly take into account the projected needs of the Practice Group's practice for the period covered by such budget, then Manager shall notify the Practice Group of the same and shall submit to the Practice Group a budget revision. Manager's authority as to any revised budget shall be the same as that authorized for the budgets provided for under Section 5.1.

Section 5.3. Budget Conformance and Accountability. Manager and Practice Group shall use their commercially reasonable efforts to manage and administer the operations of the

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Practice Group's practice as provided in this Agreement so that the actual revenues, collections, costs and expenses of the operation of the business and maintenance of the Office Facilities during any applicable period of the calendar year shall be consistent with the applicable operating and capital budgets. Practice Group shall not have the power to prohibit or invalidate any expenditure of Manager that is consistent with the applicable operating and capital budgets. Neither Manager nor Practice Group shall make any expenditure inconsistent with the applicable operating and capital budgets without the other party's consent unless (i) the expense does not exceed a line item expense specified in the operating and capital budget by more than ten percent (10%) for any twelve (12)-month period, and (ii) the total expenses for the applicable calendar year, on an annualized basis, do not exceed the total amount budgeted for such year by more than five percent (5%). Notwithstanding the foregoing, Manager may exceed any line item in the operating and capital budgets if the excess is reasonably required to support an expansion of Practice Group's orthodontic practice or as a result of an event beyond Manager's control (including, without limitation, increases in tax rates, utility charges, strikes and Acts of God).

ARTICLE 6. SERVICES TO BE PROVIDED BY MANAGER

Section 6.1. Performance of Management Functions. During the term of this Agreement, Manager shall provide or arrange for the services set forth in this Article, all in a manner consistent with the high quality and standards as practiced by Practice Group prior to the date of this Agreement. Practice Group authorizes Manager to perform its services under this Agreement in whatever manner it deems reasonably appropriate to meet the day-to-day non-orthodontic requirements of Practice Group's clinical and orthodontic operations. Practice Group will not act in a manner that reasonably could be expected to prevent Manager from efficiently managing the day-to-day operations of Practice Group as provided in this Agreement in a businesslike manner. In general, the Manager, in the discharge of its management duties, shall have the right to take such actions, enter into such contracts and make such arrangements as are required for the proper discharge of such duties, all in the Manager's reasonable judgment.

Section 6.2. Payment of Practice Business Expenses. Manager shall timely pay all Practice Business Expenses, unless being appropriately contested in good faith. *"Practice Business Expenses"* shall mean all operating and non-operating expenses incurred in the operation of the business of the Practice Group *other than* Practice Group Expenses. Without limitation, Practice Business Expenses shall include:

(a) the salaries, benefits and other direct costs of all employees of Manager at any Office Facility, but not the salaries, benefits or other direct costs of the Practice Orthodontists;

(b) the direct cost of any consultant retained to provide services at or in connection with any Office Facility, it being understood that prior approval of the engagement of any such consultant shall be obtained from Manager;

(c) reasonable recruitment costs and out-of-pocket expenses of Manager associated with the recruitment of additional Practice Orthodontists;

(d) malpractice insurance for and comprehensive and general liability insurance covering each Office Facility and Manager's employees at each Office Facility;

(e) the expense of using, maintaining, leasing, purchasing, licensing or otherwise procuring the Office Facilities and related equipment and systems, including, without limitation, rent expense on operating leases, depreciation and amortization of capital assets, interest expense incurred to finance the procurement of capital assets (whether by purchase or by capital lease) and licensing fees and other expenses incurred to obtain and maintain clinical information systems; provided, however that Practice Business Expenses shall not include depreciation of the excess book value as allocated by Manager in excess of the book value as of the date hereof in the most recent tax return of Fulcher (hereinafter defined) to owned capital assets acquired by Manager from Fulcher pursuant to the Asset Purchase Agreement entered into by and between Roland K. Fulcher, D.M.D. (*"Fulcher"*) and Manager of even date herewith (the *"Asset Purchase Agreement"*);

(f) the reasonable travel expenses associated with attending meetings, conferences, or seminars at the request of and for the benefit of Practice Group;

(g) the cost of supplies, inventory and utilities;

(h) Practice Group's pager and cellular telephone rental and monthly service expenses that are reasonably related to the conduct of the Practice Group's business, provided, however, that all such expenses in excess of the amount budgeted therefor in the applicable budget prepared pursuant to Article 5 must be approved by Manager;

(i) reasonable costs and expenses of complying with continuing professional education requirements imposed by law (including continuing orthodontic education course registration fees, lodging and meals), provided, however, that all such expenses in excess of the amount budgeted therefor in the applicable budget prepared pursuant to Article 5 must be approved by Manager;

(j) reasonable costs associated with membership for each Practice Orthodontist in the American Association of Orthodontics, the American Dental Association and one local chamber of commerce organization, provided, however, that all such costs in excess of the amount budgeted therefor in the applicable budget prepared pursuant to Article 5 must be approved by Manager (which approval shall not be unreasonably withheld); and

(k) other expenses of Manager that, based upon the Manager's reasonable good faith determination, are properly allocable to Practice Group.

Section 6.3. Orthodontic Service Development. The parties acknowledge that Practice Group has opportunities to provide new orthodontic services and utilize new technologies that will require capital expenditures and that such opportunities would include such new and replacement equipment as may be economically justified. The parties agree that development of new orthodontic services will depend on, among other factors, anticipated volume, reimbursement and number of orthodontists, orthodontist support, and financial performance of the Practice Group's business, subject to the requirements of any applicable leases and subleases.

Section 6.4. Practice Expansion. To assist Practice Group in its plan to expand its practice through the addition of new orthodontists, equipment and facilities, Manager will use its

reasonable efforts to support recruitment of Practice Orthodontists and to acquire additional equipment and facilities for such expansion, all as may be mutually agreed upon by Manager and Practice Group.

Section 6.5. Audits and Statements. As soon as practicable after the end of each fiscal year, but in any event within ninety (90) days after such close, Manager shall prepare or cause to be prepared annual financial statements for the operations of the Practice Group's business. If Manager determines that audited statements of revenue for the Practice Group are in the best interest of Manager and the Practice Group, then Manager shall arrange for such audit and the cost of such audit shall be Manager's and shall not be a Practice Business Expense. Manager shall prepare or cause to be prepared (i) monthly unaudited financial information with respect to the Practice Group's operations, in a reasonable format consistent with the format for financial information provided by Manager to other orthodontic groups managed by it, and (ii) a monthly statement of Practice Business Expenses, each of which shall be delivered to Practice Group within forty-five (45) days after the close of each calendar month.

Section 6.6. Inventory and Supplies. (a) Practice Group shall order and Manager shall purchase such inventory and supplies as are ordinary, necessary or appropriate and that Manager and Practice Group shall deem to be reasonably necessary in the operation of the Practice Group's business for delivery of quality orthodontic services in a cost-effective manner. The cost of such inventory and supplies shall be a Practice Business Expense. Such purchases shall be made from suppliers chosen by Practice Group, unless such inventory and supplies may be purchased from suppliers chosen by Manager at a lower cost than available to Practice Group.

(b) Practice Group shall be responsible for oversight and supervision with respect to Licensed Orthodontic Supplies as required under applicable law. As used in this Agreement, *"Licensed Orthodontic Supplies"* means all drugs, pharmaceuticals, products, substances, items or devices whose purchase, possession, maintenance, administration, prescription or security requires the authorization or order of a licensed health care provider or requires a permit, registration, certification or other governmental authorization held by a licensed health care provider as specified under any federal and/or State law.

Section 6.7. Management Services and Administration.

(a) Practice Group appoints Manager as its sole and exclusive manager and administrator of all day-to-day business functions subject to the terms of this Agreement. Practice Group agrees that the purpose and intent of this Agreement is to relieve Practice Group, its stockholders and Practice Orthodontists to the maximum extent possible of the administrative, accounting, personnel and business aspects of their practice, with Manager assuming responsibility and being given all necessary authority to perform these functions. Manager agrees that Practice Group and only Practice Group will perform the orthodontic functions of Practice Group's practice. Manager will have no authority, directly or indirectly, to perform, and will not perform, any orthodontic or other dental or medical function.

(b) Manager shall, on behalf of Practice Group, use all commercially reasonable efforts to bill patients and collect the professional fees for orthodontic and other dental services rendered by Practice Group, and for all other professional services. Manager shall use all commercially reasonable means to maximize the collection of all professional fees. Practice Group appoints Manager for the term of this Agreement to be its true and lawful

attorney-in-fact, for the following purposes: (i) to bill patients in Practice Group's name and on its behalf; (ii) to collect accounts receivable resulting from such billing in Practice Group's name and on its behalf; (iii) to receive payments from all third party payors in Practice Group's name and on its behalf for deposit in a bank account in the name of and under the sole and exclusive control of Practice Group (the *"Practice Group Account"*); (iv) to take possession of, endorse in the name of Practice Group (and/or in the name of an individual Practice Orthodontist, such payment intended for the purpose of payment of a Practice Orthodontist's bill), and deposit in the Practice Group Account any notes, checks, money orders, insurance payments and other instruments received in payment of accounts receivable; and (v) subject to prior written approval by Practice Group, to initiate the institution of legal proceedings in the name of Practice Group to collect any accounts and monies owed to Practice Group, to enforce the rights of Practice Group as creditor under any contract or in connection with the rendering of any service, and to contest adjustments and denials by governmental agencies (or fiscal intermediaries) and third-party payors. The performance of all billing and collection functions by Manager shall comply in all material respects with state and federal statutes, regulations and directives applicable to such functions. All payments of or with respect to professional fees for orthodontic services rendered by Practice Group shall be made to and shall first be deposited into the Practice Group Account. The bank in which the Practice Group Account is located shall be a bank that is not providing financing to Practice Group or acting on behalf of another party in connection with such financing. Practice Group shall instruct the bank in which the Practice Group Account is located to "sweep" (on a daily basis or such other basis as determined by Manager) such payments into a bank account in the name of and designated by Manager. Such instructions shall be revocable at the sole instruction of Practice Group; provided, however, that the revocation of such instructions by Practice Group shall constitute a material breach by Practice Group of this Agreement.

(c) Manager shall supervise and maintain custody of all files and records relating to the Practice Group's business, including, without limitation, accounting, billing, patient orthodontic records and collection records. Subject to Article 10 hereof, Patient orthodontic records shall at all times be and remain the property of Practice Group and shall be located at the Office Facilities so that they are readily accessible for patient care. The management of all files and records shall comply with applicable local, state and federal statutes and regulations and shall adhere to all laws, rules and regulations covering orthodontist/patient privilege. Manager shall use commercially reasonable efforts to preserve the confidentiality of patient orthodontic records, shall use information contained in such records only for the limited purpose necessary to perform the services set forth in this Agreement, and shall be responsible for damages resulting from a breach of the foregoing due to its negligence; provided, however, in no event shall a breach of said confidentiality be deemed a default under this Agreement.

(d) Manager shall provide the Practice Group with all reasonably necessary clerical, accounting, bookkeeping and computer services, printing, postage and duplication services, dental/orthodontic transcribing services and any other ordinary, necessary or appropriate service for the operation of the Practice Group's business, the cost of all of which shall be Practice Business Expenses.

(e) Manager shall assist Practice Group in recruiting additional orthodontists, carrying out such administrative functions as may be appropriate such as advertising for and identifying potential candidates, checking credentials and arranging interviews. All orthodontists hired by Practice Group shall be the direct employees of Practice

Group. Any out-of-pocket expenses incurred by Manager in the recruitment of orthodontists, including, without limitation, employment agency fees, relocation and interviewing expenses, shall be Practice Business Expenses.

(f) Manager shall negotiate and administer all managed care and other similar payor contracts on behalf of Practice Group and shall consult with Practice Group on all professional or clinical matters relating to such contracts. In consideration of services provided pursuant to this Section 6.7(f), the Practice Group shall make payment to the Manager in the amount of $1,000 per year, payable in arrears upon the Practice Group's receipt of a statement from the Manager therefor; such $1,000 figure may be increased from year to year by an amount not to exceed 10% per year.

Section 6.8. Personnel. Manager shall provide professional management and administrative personnel, clerical, bookkeeping and collection personnel reasonably necessary for the conduct of the Practice Group's business operations. Manager shall determine and cause to be paid (as a Practice Business Expense) the salaries and fringe benefits of all such personnel. Such personnel shall be under the direction, supervision and control of Manager. If Practice Group is dissatisfied with the services of an employee, Practice Group shall consult with Manager and advise Manager with respect to such dissatisfaction. Manager shall in good faith determine whether the performance of that employee could be brought to acceptable levels through counsel and assistance, or whether the employment of such employee should be terminated. Subject to applicable employment laws, rules and regulations, all of Manager's obligations regarding staff shall be governed by the overriding principle and goal of providing quality orthodontic care. Employee assignments shall be made to promote consistent and continued rendering of quality orthodontic support services and to provide prompt availability and accessibility of individual orthodontic support personnel to Practice Orthodontists in order to develop constant, familiar and routine working relationships between individual Practice Orthodontists and individual members of the orthodontic support personnel. Manager shall maintain established working relationships wherever possible and Manager shall make every reasonable effort consistent with sound business practices to honor the specific requests of Practice Group with regard to the assignment of its employees.

Section 6.9. Marketing Services. The Manager shall use its reasonable commercial efforts to market the services provided by the Practice Group so as to maintain and enhance the Practice Group's orthodontics practice. Such marketing shall be undertaken in a professional manner and shall be in compliance with applicable laws and regulations regulating advertising by the orthodontic profession. The parties agree that, at the option of the Manager, the "New Image" name may be included in any or all signage, letterhead, professional announcements and the like relating to the Practice Group's services. In consideration of services provided pursuant to this Section 6.9, Practice Business Expenses shall include the amount indicated in the budget prepared and provided as described in Section 5.1 hereof for the relevant year in the line item for "marketing expense," such amount not to exceed 5% of Practice Group Revenues, hereinafter defined; provided however that such marketing expense shall not exceed Practice Group's pro rata portion of such actual marketing expense for the Charleston, South Carolina market.

Section 6.10. Temporary Orthodontist Replacement; Transition to Retirement. (a) In the event that any Practice Orthodontist is disabled during the term of this Agreement, if requested, Manager will consult with such orthodontist and shall make a determination as to

whether the circumstances make it appropriate to obtain the services of a temporary or permanent replacement for the period of such orthodontist's absence or the remaining portion of his or her employment agreement with the Practice Group. Considerations shall include, among other things, the likely duration of the replacement arrangement, replacement orthodontist availability, and compensation disparity between the affected Practice Orthodontist and replacement. If a determination is made that a temporary or permanent replacement is appropriate, Manager will use its reasonable commercial efforts to aid the Practice Group to locate and employ such replacement.

(b) For any Practice Orthodontist who reaches the age of sixty-five (65) during the term of this Agreement, if requested, the Manager will consult with such orthodontist about the subject of retirement and arrangement for transitioning such orthodontist's practice to another orthodontist. Such consultation shall include consideration of the practicality of transition, the availability of replacement candidates, and costs of the transition to the Practice Group and the Manager. In any event, the Manager will cooperate with such orthodontist, assist in arranging for transition and facilitate the process to the extent practicable.

Section 6.11. Events Excusing Performance. Manager shall not be liable to Practice Group for failure to perform any of the services required in this Agreement in the event of strikes, lock-outs, calamities, acts of God, unavailability of supplies or other events over which Manager has no control for so long as such events continue, and for a reasonable period of time thereafter.

Section 6.12. Compliance with Applicable Laws. Manager shall comply in all material respects with all applicable federal, state and local laws, regulations and restrictions in the conduct of its obligations under this Agreement.

Section 6.13. No Practice of Medicine, Dentistry or Orthodontics. The parties acknowledge that Manager is not authorized or qualified to engage in any activity that may be construed or deemed to constitute the practice of medicine, dentistry or orthodontics nor does Manager intend to engage in any activity that may be deemed to constitute the practice of medicine, dentistry or orthodontics. To the extent any act or service required to be performed by Manager pursuant to this Agreement should be construed by a court of competent jurisdiction or by any applicable board of licensure to constitute the practice of medicine, dentistry or orthodontics, the requirement to perform that act or service by Manager shall be deemed waived and unenforceable.

Section 6.14. No Warranty. Practice Group acknowledges that Manager has not made and will not make any express or implied warranties or representations that the services provided by Manager will result in any particular amount or level of orthodontic practice or income to Practice Group.

Section 6.15. Notice Concerning Effect on Operations or Financial Condition. Manager shall provide to Practice Group notice within five (5) business days after Manager has knowledge of the occurrence, or failure to occur, of any event that is reasonably likely to have a material adverse effect on the operations (as now or then conducted) or financial condition of Manager.

ARTICLE 7. OBLIGATIONS OF PRACTICE GROUP

Section 7.1. Professional Services. Practice Group shall provide professional orthodontic services in compliance at all times with ethical standards, laws and regulations applying to the dental/orthodontic profession. Practice Group shall assure that each person associated with Practice Group to provide orthodontic care to patients of Practice Group is duly licensed and in good standing under all applicable laws, rules and regulations. If any disciplinary actions or professional malpractice actions are initiated against any such person, then Practice Group shall immediately by written notice inform Manager of such action and the underlying facts and circumstances. Practice Group shall carry out a written program to monitor the quality of orthodontic care provided by the Practice Group, which program shall be developed with the assistance of Manager's Clinical Board and shall from time to time be subject to review and approval by the Clinical Board.

Section 7.2. Orthodontic Practice. Practice Group shall use and occupy the Office Facilities pursuant to and in compliance with the terms of all applicable lease agreements in the practice of dentistry/orthodontics and other uses permitted by the terms of such lease agreements, and shall comply with all applicable local rules, ordinances and all recognized standards of orthodontic care. The orthodontic practice or practices conducted at the Office Facilities shall be conducted solely by Practice Orthodontists, and no other orthodontist shall be permitted to use or occupy the Office Facilities without the prior written consent of Manager. As a continuing condition of Manager's obligations under this Agreement, each Practice Orthodontist and any other orthodontist or other health care practitioner retained by Practice Group to provide orthodontic services must (i) comply with, be controlled and governed by and otherwise provide orthodontic services in accordance with applicable federal, State and municipal laws, rules, regulations, ordinances and orders, and the ethics and standard of care of the dentistry/orthodontics community in which the principal office of such Practice Orthodontist or other health care practitioner is located and (ii) if appropriate, obtain and retain appropriate dentistry/orthodontic staff membership with appropriate clinical privileges at any health care facility at which orthodontic services are to be provided. In addition, the Practice Group shall cause its Practice Orthodontist or Practice Orthodontists to provide appropriate leadership of production and rendering of the Practice Group's services and shall provide appropriate participation in connection with marketing activities carried on by the Manager as provided in Section 6.9 hereof.

Section 7.3 Payment of Practice Group Expenses. Practice Group shall be responsible for the payment of all Practice Group Expenses. As used in this Agreement, *"Practice Group Expenses"* means:

(a) Any federal, state or local income taxes of Practice Group and the costs of defending against any such tax or controversy involving any such tax;

(b) Practice Orthodontists' (i) salaries and bonuses, (ii) other IRS Form W-2 income, (iii) IRS Form 1099 income, (iv) payroll taxes, (v) workers' compensation insurance premiums, and (vi) fringe benefits, including, without limitation, cafeteria plan expenses, retirement plan contributions, home office telephone expenses, automobile expenses (including, without limitation, car allowances, car rental expenses, gas, oil, maintenance, repairs, automobile liability and collision insurance and the entire cost of all uninsured automobile accidents),

aircraft and air flight expenses (except when on a commercial airline for bona fide business of the Practice Group);

(c) Life, health, disability income and professional liability insurance premiums for coverage of Practice Orthodontists and their dependents;

(d) Costs of membership fees, assessments and dues in professional organizations, business groups, civic organizations and golf, tennis or country clubs and similar organizations (except for reasonable costs associated with membership in the American Association of Orthodontics, the American Dental Association and one local chamber of commerce organization that have been included in the applicable budget prepared in accordance with Article V or have otherwise been approved by Manager);

(e) All costs and expenses associated with accounting, actuarial, legal and benefit plan administration incurred by or on behalf of Practice Group if not specifically included as a Practice Business Expense in this Agreement or in the applicable annual budget approved by the Governance Board;

(f) Uninsured malpractice claims against Practice Group, any of its employees or independent contractors (including, without limitation, claims in excess of the limits of any policy of professional liability insurance covering Practice Group and its employees and independent contractors), all uninsured legal costs and other expenses in defense of such claims and all uninsured malpractice liability judgments (including, without limitation, judgments in excess of the limits of any policy of professional liability insurance covering Practice Group and its employees and independent contractors), and interest on such judgments, assessed against Practice Group or any of its employees or independent contractors, and deductibles under any policy of professional liability insurance covering Practice Group and its employees and independent contractors; provided however that this Section 7.3(f) shall not be applicable to claims resulting from the actions of Manager and its employees; and

(g) Direct personal expenses of Practice Orthodontists, including, without limitation, (i) personal use of pager and cellular telephone, personal dry cleaning, home office expenses, home computer costs and expenses, food, beverage, entertainment, travel and lodging expenses that are not primarily incurred for the bona fide development, maintenance or expansion of Practice Group, (ii) expenses of Manager or Practice Group employees or independent contractors providing personal services to particular Practice Orthodontists or their family members, and (iii) other essentially personal expenses.

Section 7.4. Enforcement of Practice Orthodontist Employment Agreement. Practice Group shall be responsible for enforcement of the terms of employment agreements with Practice Orthodontists, and Manager shall be a third-party beneficiary as to the rights of the Practice Group under such agreements. As used in this Agreement, *"Practice Orthodontists"* means those individuals who are employees or shareholders of Practice Group or are otherwise under contract with Practice Group to provide professional orthodontic services to patients of Practice Group and are duly licensed to provide professional orthodontic services in the State of South Carolina, and *"Practice Orthodontist"* means any of such persons. With respect to Practice Orthodontists, Practice Group shall only employ and contract with licensed orthodontists meeting applicable credentialing guidelines established by Practice Group and otherwise in compliance with the provisions of this Agreement.

Section 7.5. Continuing Orthodontics Education. Practice Group shall assure that each of its Practice Orthodontists participates in such continuing orthodontics education as is necessary for such orthodontist to practice orthodontics consistent with recognized and acceptable standards of professional practice.

Section 7.6. Professional Liability Insurance Eligibility. Practice Group shall cooperate in the obtaining and retaining of professional liability insurance by assuring that its Practice Orthodontists are insurable and participating in an ongoing risk management program.

Section 7.7. Events Excusing Performance. Practice Group shall not be liable to Manager for failure to perform any of the services required in this Agreement in event of strikes, lock-outs, calamities, Acts of God, unavailability of supplies or other events over which Practice Group has no control for so long as such events continue, and for a reasonable period of time thereafter.

Section 7.8. Peer Review/Quality Assurance. Practice Group shall adopt the peer review/quality assessment program promulgated by the Clinical Board to monitor and evaluate the quality and cost-effectiveness of orthodontic services. Manager shall be permitted to participate in peer review/quality assurance activities as reasonably requested by Manager, but only to the extent that such assistance can be provided consistent with maintaining the confidentiality and nondiscoverability of the processes and actions of the peer review/quality assurance process of Practice Group.

Section 7.9. Notice Concerning Effect on Operations or Financial Condition. Practice Group shall provide to Manager notice within five (5) business days after Practice Group has knowledge of the occurrence, or failure to occur, of any event that is reasonably likely to have a material adverse effect on the operations (as now or then conducted) or financial condition of Practice Group. If required by Manager's source or sources of financing, within five (5) days after request for the same from Manager, Practice Group shall provide to Manager a written certificate certifying that Practice Group has no knowledge of the occurrence, or failure to occur, of any event that is reasonably likely to have a material adverse effect on the operations (as now or then conducted) or financial condition of Practice Group since the most recently-provided certificate (or, if no such certificate has yet been provided, since the date of this Agreement), or describing in detail any such event or events and the likely material adverse effect of the same.

Section 7.10 Notice of Certain Other Material Events. Practice Group shall provide to Manager prompt notice of (i) the occurrence, or failure to occur, of any event that Practice Group believes would be likely to cause (x) any of the representations or warranties of Practice Group contained in this Agreement to be untrue or inaccurate in any material respect at any time from the date of this Agreement or (y) any covenant, condition or agreement contained in this Agreement not to be complied with or satisfied in all material respects, (ii) any failure of Practice Group, or any officer, director, employee or agent of Practice Group, to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it under this Agreement, (iii) any material event of default under any agreement with respect to material indebtedness for borrowed money or a purchase money obligation, and any event that, upon notice or lapse of time or both, would constitute such an event of default, in each case which event of default would permit the holder of such indebtedness or obligation to accelerate the

maturity of such indebtedness, or (iv) any action, suit or proceeding at law or in equity or by or before any governmental instrumentality or agency that, if adversely determined, would materially impair the right of Practice Group to carry on its business substantially as now or then conducted, or would have a material adverse effect on Practice Group.

Section 7.11. Maintenance of Financial and Accounting Records. The Practice Group shall maintain its historical accounting and financial records (for a period of duration not less than that which begins on the date which is five (5) years prior to the date hereof and ends on the date hereof) until such time as the Manager shall provide written direction that such records no longer need be maintained. In the event that at any time the Manager determines that an audit of such historical accounting and financial records is in the best interest of the Manager and the Practice Group, the Manager, at its own expense and for its own account, shall prepare or cause such audit to be prepared and Practice Group shall provide its support and assistance in and shall otherwise facilitate the preparation of such audited financial statements.

Section 7.12. P.A. Stock. Without the prior written consent of Manager, (i) Practice Group shall not issue additional shares of Common Stock or any other equity security to any person, and (ii) the Practice Group shall not employ any Practice Orthodontist other than any Practice Orthodontist who is employed by the Practice Group on and as of the date of this Agreement.

ARTICLE 8. RESTRICTIVE COVENANTS; EXCLUSIVE TERRITORY

The parties recognize that the practice management services to be provided by Manager shall be feasible only if Practice Group operates an active orthodontic practice to which the Practice Orthodontists devote their full time and attention.

Section 8.1. Confidential and Proprietary Information. "*Confidential Information*" means all or any portion of any information or compilation of information developed, licensed, purchased or otherwise obtained by or belonging to Manager (other than patient files and charts), whether or not provided or developed in connection with the performance of services under this Agreement, including, without limitation, any financial, dental, orthodontic, operational, scientific or technical information, design, process, procedure, formula, improvement, system, manuals, devices, computer software or hardware, the terms of any payor agreements, business plans, policies or procedures, case management and quality improvement programs and orthodontic/dental or clinical treatment protocols or standards, however stored or recorded, including, without limitation, in written, oral, graphic, or pictorial form, computer discs or hard drives, magnetic tape, digital or any other electronic medium. However, Confidential Information does not mean or include information that (i) is or subsequently becomes generally available to the public other than (x) as a result of disclosure, directly or indirectly, by Practice Group in violation of this Agreement or any other obligation of non-disclosure owed to Manager or (y) the breach of any obligation owed by any third party to Manager; (ii) prior to its disclosure to Practice Group, was within the possession of or available to Practice Group on a non-confidential basis; (iii) is disclosed with the prior written approval of Manager; or (iv) is obligated to be produced under an order of a court of competent jurisdiction or a valid administrative, congressional or other subpoena, civil investigative demand or similar process; provided, however that upon issuance of any such order, subpoena, demand or other process, Practice Group shall promptly notify Manager and shall provide Manager an opportunity (if then

available) to contest, at Manager's expense the propriety of such order or subpoena or to arrange for appropriate safeguards against further disclosure by the court or administrative or congressional body seeking to compel disclosure of such Confidential Information.

(a) Practice Group acknowledges that Manager retains sole and complete ownership and all rights to Confidential Information and nothing contained in this Agreement shall be construed as a license or transfer of Confidential Information or any portion of it to or for the benefit of Practice Group, either during the term of this Agreement or thereafter. Upon termination or expiration of this Agreement, Manager shall have the right to remove and retain all Confidential Information, and Practice Group shall immediately upon request deliver to Manager all Confidential Information and all copies of Confidential Information.

(b) Practice Group acknowledges that Manager has and shall have invested a significant amount of its resources in obtaining, developing and maintaining Confidential Information and that its value may be diminished or destroyed if Practice Group or any associated orthodontist discloses Confidential Information to a third party. Accordingly, Practice Group and all associated orthodontists shall strictly maintain the confidentiality of Confidential Information. Practice Group shall not duplicate or permit access to Confidential Information by any third party or to any of Practice Group's personnel except on a strict "need-to-know" basis and in the ordinary course of business. All such individuals shall be informed of the confidential nature of Confidential Information, will be explicitly directed by Practice Group not to disclose Confidential Information to any other person and will expressly agree to be bound by the obligations contained in this Section. Practice Group shall not loan, lease or otherwise permit the use of any Confidential Information by any other person or entity, regardless of its relationship to Practice Group. Practice Group agrees to be responsible for any breach of this Section by its officers, directors and employees, and Practice Group agrees to use its best efforts to cause affiliates, advisors, agents, representatives, contractors, employees and any others granted access to Confidential Information by Practice Group to observe the requirements of this Section. Practice Group shall immediately notify Manager of any suspected or actual breach of the requirements contained in this Section. The provisions of this Section shall survive any termination or expiration of this Agreement.

(c) The written employment agreements described in Section 8.2(d) shall contain covenants of all Practice Group employees to keep confidential, not to use or disclose and to return all records of, Confidential Information.

(d) Practice Group understands and acknowledges that Manager would be irreparably harmed by a breach of this Section and it may be difficult to estimate damages resulting from such a breach. Consequently, Manager shall be entitled to injunctive or such other equitable relief as may be appropriate to prevent a breach or threatened or continuing breach of this Section, and to secure the enforcement of its provisions, without the necessity of posting a bond (cash or otherwise, unless required by applicable law), and without foregoing any legal relief (including recovery of monetary damages) which Manager may otherwise be entitled to pursue. If any provision of this Section is held by a court of competent jurisdiction to be unenforceable for any reason, including, without limitation, an excessive time period or overly-broad description of Confidential Information, Practice Group and Manager agree that such provision shall be reformed so that such provision and this Section would be held enforceable. The foregoing shall be without prejudice to any applicable state or federal law protecting trade secrets or confidential information.

(e) Manager agrees to maintain the confidentiality of patient charts and records in accordance with applicable legal and ethical standards.

Section 8.2. Noncompetition. Practice Group acknowledges that Manager will incur substantial costs in providing the equipment, support services, personnel, management, administration, and other items and services that are the subject matter of this Agreement, and that in the process of providing practice management services under this Agreement, Practice Group will be privy to the Confidential Information as well as other financial and proprietary information, to which Practice Group would not otherwise be exposed. The parties also recognize that the practice management services to be provided by Manager will be feasible only if Practice Group operates an active orthodontic practice to which the orthodontists associated with Practice Group devote their full professional time and attention. Practice Group agrees and acknowledges that the noncompetition covenants described in this Agreement are necessary for the protection of Manager, and that Manager would not have entered into this Agreement without the following covenants.

(a) For so long as this Agreement is in effect, except for its obligations pursuant to this Agreement, Practice Group shall not establish, operate or provide orthodontic services at any orthodontic office or other health care facility unless the same is subject to the terms of this Agreement. Notwithstanding the immediately preceding sentence, but nevertheless subject to all other provisions of this Section 8.2, Manager agrees not to unreasonably withhold its consent to Practice Group's participation in certain charitable, educational and other community service related activities (including, without limitation, participation on boards and committees of health care organizations) or to Practice Group's participation in research, publishing, lecturing or expert witness activities, *provided* that such activities cannot reasonably be expected to interfere with or adversely affect the business of Practice Group or the performance of Practice Group's obligations under this Agreement, and *provided further* that such activities are performed in a manner and at a time that does not interfere with or adversely affect (i) the dedication by the Practice Orthodontists of their full professional time and attention to the business of Practice Group or (ii) the performance by the Practice Orthodontists of their full job responsibilities to Practice Group.

(b) Except as specifically agreed to by Manager in writing or as provided in Section 8.2(f) below, Practice Group covenants and agrees that prior to the termination of this Agreement and for a period of three (3) years from the date this Agreement is terminated, Practice Group shall not directly or indirectly (through its shareholders or otherwise) own (excluding ownership of less than one percent (1%) of the equity of any publicly traded entity), manage, operate, control, contract with or be otherwise associated with, lend funds to, lend its name to or maintain any interest whatsoever in any enterprise (i) having to do with the provision, distribution, promotion or advertising of any type of management or administrative services or products to orthodontists, orthodontic facilities or orthodontic practices in competition with Manager (or any of its affiliates) within the geographic area defined as a four (4) mile radius of any then current facility from which Practice Group or any other physician practice that has a management service agreement with Manager (or any of its affiliates) provides orthodontic services (the *"Practice Territory"*); and/or (ii) offering any type of service(s) or product(s) to orthodontists or orthodontic practices located in the Practice Territory substantially similar to the types of services or products offered by Manager (or any of its affiliates) in the Practice Territory, it being acknowledged that this Section 8.2(b) is not intended to prohibit Practice