

INDEPENDENT CONTRACTOR AGREEMENT

(NOTE: This is only one example of an independent contractor agreement based on Ontario law. This example is meant primarily as a checklist for items to be considered and is not the definitive form of agreement. In every case, the specific facts of each situation and the relevant provincial law must be considered. It could be amended for an Independent Practitioner or a self-employed dental hygienist. Please ensure that you obtain independent legal advice from a lawyer of your choice prior to relying on this form of agreement.)

THIS AGREEMENT made as of the day of , 20 .

BETWEEN:

(hereinafter referred to as the “Dentist”)

OF THE FIRST PART

AND:

(hereinafter referred to as the “Dental Hygienist”)

OF THE SECOND PART

Jointly referred to as “the Parties”

WHEREAS the Dentist is a member of good standing of a Provincial Dental Association and is duly qualified and licensed to practice dentistry in the Province of ****;

AND WHEREAS the Dental Hygienist is a member of the Canadian Dental Hygienists Association and is duly qualified and licensed to practice dental hygiene in the Province of ****;

AND WHEREAS the practice includes all equipment, furniture, assets, supplies and facilities necessary to conduct the dental practice (the “equipment”) together with all managerial, secretarial, administrative and accounting services necessary to conduct the practice (the “services”);

AND WHEREAS the Dental Hygienist desires to carry out his or her practice in association with the Dentist as an independent contractor on the terms and conditions herein set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 - INDEPENDENT CONTRACTOR RELATIONSHIP

- 1.1. The parties specifically agree that the Dental Hygienist is an independent contractor and is not in any manner an employee, joint venturer or partner of the Dentist with regard to the services to be carried out or performed pursuant to this Agreement. The Dental Hygienist further agrees not to claim any benefit or protection under any law which provides a benefit or protection to employees.
- 1.2. The Dentist hereby grants to the Dental Hygienist a non-exclusive, revocable license to use the premises together with such equipment and services as are reasonably necessary for the Dental Hygienist to carry on the Dental Hygienist's practice.
- 1.3. The Dental Hygienist acknowledges that the Dentist is entitled to the concurrent use of the premises, the equipment and the services and that the Dentist may have granted or in the future may grant, similar concurrent rights to use the premises, the equipment and the services to other dental health professionals, dental hygienists or support personnel.
- 1.4. The Dental Hygienist agrees and acknowledges that the Dental Hygienist shall have no authority to make, alter or discharge any contract or agreement or to receive any money due or to become due to the Dentist except as may be specifically agreed to as set out herein. The Dental Hygienist further confirms that he or she shall not at any time, be considered or hold him/herself out to be an agent of or to have the authority or capacity to legally bind the Dentist or to have any authority or capacity generally enjoyed by agents.
- 1.5. The Dental Hygienist shall be free to perform the duties and services required pursuant to this Agreement as a Dental Hygienist, in his or her discretion, acting reasonably and in accordance with the highest professional standards, deems appropriate. The Dental Hygienist shall be free to select the hours of work and the scheduling of vacation time without seeking the consent of the Dentist. The fees charged by the Dental Hygienist for providing dental hygiene services shall be set by the Dental Hygienist.
- 1.6. The Dental Hygienist is free to carry on his or her practice in association with the Dentist's practice during the term of this Agreement subject only to the terms and conditions set forth in this Agreement.

ARTICLE 2 - TERM

2.1. This Agreement shall commence on ***** and shall expire on ***** unless terminated earlier in accordance with the terms and conditions of this Agreement. This Agreement may be renewed in writing by the parties on or before the renewal date on terms that are mutually satisfactory to both parties. The renewal date shall be the anniversary of the expiration of the original term of this Agreement.

ARTICLE 3 - FEES AND ACCOUNTING

3.1. The Dental Hygienist shall accurately record all work performed and services rendered pursuant to this Agreement on an individual patient basis. The Dental Hygienist shall submit to the Dentist on a bi-weekly basis an invoice for the payment of all services rendered. The Dentist shall pay the Dental Hygienist in full within 10 days of receipt of the Dental Hygienist's invoice

3.2. The Dental Hygienist shall be entitled to receive all of the fees that have been billed and collected (pursuant to the invoices provided by the Dental Hygienist) subject to the right of the Dentist to deduct from the total of all fees collected the monies set out in Section 3.3.

3.3. As consideration for the right to use the premises, the equipment and the services pursuant to this Agreement the Dental Hygienist hereby agrees to pay to the Dentist in each calendar month during the term of this Agreement the amounts more particularly set out in Schedule "A".

3.4. The Dental Hygienist confirms that he/she is not an employee for any purpose whatsoever and accordingly is not entitled to receive vacation pay, sick leave, payment for statutory holidays, overtime pay, bonuses or other employee benefits.

ARTICLE 4 - DUTIES

4.1. The Dental Hygienist shall carry out the Dental Hygienist's practice in conformity with all provincial legislation governing the provision of dental hygiene services and in addition to the normal and usual services performed by the Dental Hygienist in the course of carrying out a practice the Dental Hygienist shall be required to perform the specific tasks set out in Schedule "B" attached hereto.

ARTICLE 5 - EXTENT OF SERVICES

5.1. The Dental Hygienist shall devote such time, attention and energies to his or her practice as is required to conduct such practice and to perform the duties set out herein. The Dental Hygienist shall not, during the term of this Agreement, be precluded from engaging in any other business activity.

ARTICLE 6 - EXPENSES

6.1. The Dental Hygienist shall be responsible for all expenses incurred by him or her related directly or indirectly to the performance of dental hygiene services pursuant to this Agreement.

ARTICLE 7 - OBLIGATIONS OF THE DENTIST

7.1. The Dentist covenants and agrees that he or she shall be responsible for providing the following equipment and services to the Dental Hygienist during the term of this Agreement:

- (a) All equipment and expendable supplies (other than tools and instruments) reasonably necessary to conduct the Dental Hygienist's practice;
- (b) All office, secretarial, stenographic, telephone and telephone answering, bookkeeping (including the billing and collection of accounts but excluding the preparation of invoices for work performed by the Dental Hygienist) clerical and administrative services required for the efficient carrying on of the Dental Hygienist's practice;
- (c) All office supplies;
- (d) The preparation of statements and calculations indicating the fees charged by the Dental Hygienist for his or her services (as invoices by the Dental Hygienist) together with record keeping for billings and collections, patients accounts, receivable lists and monthly and year end summaries;
- (e) All other non-professional services and facilities required for the efficient operation of the Dental Hygienist's practice as may be agreed upon by the Dentist and the Dental Hygienist including reasonable efforts on the part of the Dentist to direct patients to the Dental Hygienist.

ARTICLE 8 - OBLIGATIONS OF THE DENTAL HYGIENIST

8.1. The Dental Hygienist covenants and agrees that he or she shall be responsible for the following expenses relating to the Dental Hygienist's practice and that the Dentist shall have no responsibility or liability to provide the following services to the Dental Hygienist or to pay any expenses relating thereto:

- (a) All tools and instruments used in the Dental Hygienist's practice;
- (b) Fees or salaries and related expenses of any staff who provide services solely to the Dental Hygienist;
- (c) Cost of professional meetings and expenses;
- (d) Cost of obtaining and maintaining appropriate liability insurance;
- (e) Professional licensing fees and memberships;
- (f) Promotional expenses including listing of phone numbers for the Dental Hygienist's practice in local telephone directories;
- (g) All taxes, including and without limitation, federal, provincial and local personal and business income taxes, sales and use taxes, other business taxes and all governmental remittances including, without limitation, remittances required to be made under the *Canada Pension Plan Act*, arising out of the Dental Hygienist's practice;
- (h) Cost of accounting and bookkeeping services other than as provided for herein;

- (i) All periodicals, professional literature, text books and reference materials; and
- (j) Personal uniforms.

8.2. The Dental Hygienist covenants and agrees that during the term of this Agreement the Dental Hygienist shall:

- (a) Use the Dental Hygienist's best skill in endeavouring to perform the Dental Hygienist's obligations under this Agreement including the obligation to maintain accurate patient records and charts;
- (b) Obtain and maintain a local business license if required by the Municipality in which the Dental Hygienist's practice is located; and
- (c) Maintain and pay for all necessary practice certificates and licenses.

8.3. The Dental Hygienist represents and warrants that he or she is now and will continue to be throughout the term of this Agreement a member in good standing of the Canadian Dental Hygienists Association and is duly qualified and licensed to practice dental hygiene in the Province of *****.

ARTICLE 9 - CONFIDENTIALITY AND NON-SOLICITATION

9.1. The Dental Hygienist acknowledges that in providing services to the Dentist he or she will acquire information about certain matters and things which are confidential to the Dentist and which is not properly in the public domain, and which information is the exclusive property of the Dentist, including, but without limiting the generality of the foregoing:

- (a) Lists of past, present and potential patients of the Dentist;
- (b) All patient files, records and charts;
- (c) Information relating to the dental practice, its finances, its manner of operations and other operational data.

9.2. The Dental Hygienist acknowledges that the information herein referred to could be used to the detriment of the Dentist. The Dental Hygienist undertakes to treat confidentially all such information and agrees not to disclose same to any third party during the currency of this Agreement or thereafter. The Dental Hygienist acknowledges, without prejudice to any other rights of the Dentist, that an injunction is the only effective remedy to protect the Dentist's rights as set out in this subparagraph. The provisions of this Article 9 shall survive the termination of this Agreement.

9.3. The Dental Hygienist covenants and agrees that he or she will not, during the term hereof and for a period of six (6) months following the date of termination of this Agreement:

- (a) Solicit for employment any person who is, at the time of such solicitation, employed by the Dentist, or directly or indirectly induce such person to leave his or her employment with the Dentist; and
- (b) Directly or indirectly, whether as principal, agent, employee, independent contractor, or associate, director or shareholder of a company, or otherwise, solicit or aid in the solicitation of any of the Dentist's patients who has been a

patient of the Dentist in the twelve (12) month period prior to termination of this Agreement.

9.4. The Dental Hygienist hereby acknowledges that all patient files and charts are and shall remain the property of the Dentist unless the parties agree in writing to the contrary. In the event that this Agreement is terminated, the Dental Hygienist shall deliver to the Dentist all patient files and charts that are in the Dental Hygienist's possession and that belong to the Dentist. The Dentist shall, in conjunction with the Dental Hygienist, notify patients who have been served by the Dental Hygienist of any change in location of the Dental Hygienist's practice. If the patient elects to obtain dental hygiene services from the Dental Hygienist at the new location, the Dental Hygienist may obtain from the Dentist a copy of the patient's dental hygiene records.

ARTICLE 10 - INDEMNITY

10.1. The Dental Hygienist shall indemnify and hold harmless the Dentist from and against all claims, actions, damages, liabilities, fines, causes of actions, suits, demands, costs and other expenses sustained or incurred by the Dentist by reason of any claim made by any patient in respect of any treatment received by such patient from the Dental Hygienist.

10.2. The Dentist shall indemnify and hold harmless the Dental Hygienist from and against all claims, actions, damages, liabilities, fines, causes of actions, suits, demands, costs and other expenses sustained or incurred by the Dental Hygienist by reason of any claim made by any patient in respect of any treatment received by such patient from the Dentist.

ARTICLE 11 - TERMINATION

11.1. This Agreement may be terminated at any time upon the mutual agreement of the parties hereto.

11.2. This Agreement shall be terminated upon the death of either the Dentist or the Dental Hygienist. This Agreement shall be terminated if the Dental Hygienist is incapable, as a result of mental or physical incapacity, to conduct a dental hygiene practice for four (4) consecutive months.

11.3. Either party may terminate this Agreement, upon the occurrence of any of the following events:

- (a) A party is materially in default of any of the provisions, terms or conditions contained herein and if such party shall have failed to remedy such default within thirty (30) days after written notice of such default has been delivered by the other party;
- (b) A party becomes bankrupt or insolvent or makes an assignment for the benefit of such parties creditors, has a petition of bankruptcy filed against him/her or

attempts to avail him/herself of any protection arising out of an applicable statute relating to insolvent debtors;

- (c) Either the Dentist or the Dental Hygienist is suspended for any period of time or loses his or her license to practice by the respective provincial licensing association.

11.3. This Agreement may be terminated by either party at any time, without cause, by giving to the other party, advance written notice of such termination. Such notice of termination must be given to the other party not less than ninety (90) days in advance of the termination date (the "notice"). In the event the notice is given by one party to the other the terms and conditions contained in this agreement shall continue in full force and effect until the termination date. During the notice period, all reasonable efforts shall be made by the Dental Hygienist to complete the dental hygiene services to all patients for whom he or she has commenced providing dental hygiene services.

11.4. The Dental Hygienist's right to receive payment from the Dentist for all work performed and invoiced prior to the termination or expiry of this Agreement shall survive any expiration or termination of this Agreement.

ARTICLE 12 - NOTICE

12.1. Any notice, report, direction, request or other documentation required or permitted to be given to any party hereto shall be in writing and shall be given by personal service, or by Registered Mail addressed as follows:

(1) to

(2) to _____ at:

Either party may by notice in writing advise of a new address for notice, which shall then be used by the party to whom it is addressed.

Any notice, report, direction, request or other document delivered personally, or by telecopier in accordance herewith shall be deemed to have been received by and given to the addressee on the day of delivery of transmission. Any notice, report, direction, request or other document mailed as aforesaid shall be deemed to have been received by and given to the addressee on the third (3rd) business day following the date of mailing, provided that for such purposes no day during which there shall be a strike or other occurrence which shall interfere with normal mail service shall be considered a business day.

ARTICLE 13 - GENERAL

13.1. In the event that any provision or part of this Agreement shall be deemed void or invalid by a Court of competent jurisdiction, the remaining provisions, or parts of it shall be and remain in full force and effect.

13.2.This Agreement constitutes the entire Agreement between the Parties with respect to their relationship and any and all previous agreements, written or oral, expressed or implied between the Parties or on their behalf relating to their relationship are terminated and cancelled and each of the Parties forever releases and discharges the other of and from all manner of actions, causes of action, claim or demands whatsoever under or in respect of any agreement.

13.3.Any modification to this Agreement must be in writing and signed by the Parties hereto.

13.4.This Agreement shall be governed by the laws of the Province of ***** and the parties agree that they will attorn to the jurisdiction of the Courts of *****.

13.5.All terms and words used in this Agreement, regardless of the number and gender in which they are used shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine or feminine or neuter as the context or sense of this Agreement or any paragraph or clause herein may require, the same as if such words had been fully and properly written in the appropriate number and gender.

13.6.Time shall be of the essence of this Agreement and every part thereof.

13.7.This Agreement is personal to the parties hereto and shall not be assigned without the written consent of the other party hereto, which consent shall not be unreasonably withheld.

13.8.This Agreement shall be binding upon and ensure to the benefit of the Parties hereto, their respective heirs, executors, administrators and assigns.

13.9.The Dental Hygienist confirms that it has been recommended to the Dental Hygienist that the Dental Hygienist consult a solicitor and obtain independent legal advice prior to the execution of this Agreement. The Dental Hygienist confirms that he or she has voluntarily declined to seek independent legal advice despite being given every opportunity to do so. The Dental Hygienist confirms that he or she has signed this Agreement voluntarily and with full understanding of the nature and consequences of the Agreement.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the date written below.

SIGNED, AND DELIVERED)
in the presence of:)
)
)
_____) _____

SCHEDULE "A"

(PAYMENTS MADE BY THE DENTAL HYGIENIST TO THE DENTIST)

SCHEDULE "B"

(SPECIFIC TASKS OF THE DENTAL HYGIENIST)