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Attorneys for Defendant/Third-Party Plaintiff
InterDent Service Corporation

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

POCATELLO DENTAL GROUP, P.C., an
Idaho professional corporation,

Plaintiff,

v.

INTERDENT SERVICE CORPORATION, a
Washington corporation,

Defendant.

INTERDENT SERVICE CORPORATION, a
Washington corporation,

Third-Party Plaintiff,

v.

POCATELLO DENTAL GROUP, P.C., an

Case No. CV-03-450-E-LMB

AFFIDAVIT OF SCOTT J. KAPLAN IN
OPPOSITION TO ORTHODONTIC
CENTERS OF IDAHO, INC.'S MOTION
TO QUASH

AFFIDAVIT OF SCOTT J. KAPLAN IN OPPOSITION TO ORTHODONTIC CENTERS OF
IDAHO, INC.'S MOTION TO QUASH - 1

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Idaho professional corporation; DWIGHT G. ROMRIELL, individually; LARRY R. MISNER, JR., individually; PORTER SUTTON, individually; ERNEST SUTTON, individually; GREGORY ROMRIELL, individually; ERROL ORMOND, individually; and ARNOLD GOODLIFFE, individually,

Third-Party Defendants.

STATE OF OREGON)
) ss.
County of Multnomah)

I, Scott J. Kaplan, being first duly sworn, state as follows:

1. I am a member of Stoel Rives LLP, counsel for defendant/third-party plaintiff InterDent Service Corporation ("ISC") in this case.

2. In response to ISC's subpoena on Orthodontic Centers of Idaho, Inc. ("OCA"), I was not contacted by OCA's counsel, Messrs. Hearn and Muhonen (also third-party defendant Misner's counsel). Before receiving OCA's motion to quash, ISC had not been told that OCA objected to the place at which its deposition was noticed. The deposition was noticed in Boise, the location of OCA's registered agent in Idaho. Had OCA expressed any objection to the place of deposition stated in the subpoena, I would have indicated that OCA could appear at its national headquarters in Metairie, Louisiana or at any other location convenient to the witness and counsel

3. *After* filing its motion, and after OCA's counsel received ISC's opposition to Dr. Bybee's and Valley Dental's motion to quash, I did receive a call from counsel. As stated above, I told them that OCA could appear at whatever location was convenient to the witness and counsel. In response, OCA's counsel raised a new argument not stated in their papers: that the Court had no jurisdiction to resolve OCA's objections and that, despite having a registered

agent in Idaho and regularly doing business in Idaho, OCA could not be served with a subpoena issued out of the District of Idaho. I indicated it was my understanding that even if the deposition was to proceed in Louisiana, the fact that OCA regularly did business in the state subjected it to the jurisdiction of the District of Idaho.

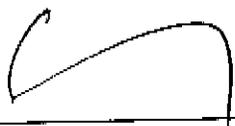
4. Attached hereto as Exhibit 1 is a copy of the complaint and exhibits obtained from the court files in *Orthalliance, Inc. v. Dr. Kenneth Greenbaun and Greenbaum Orthodontics, P.C.*, U.S.D.C. Oregon Civil Case No. 04-6238-HO.

5. Attached hereto as Exhibit 2 is an OCA press release obtained from its Internet Web site indicating that Orthalliance is a wholly owned subsidiary of OCA and discussing the Orthalliance litigation in Indiana relating to the enforcement of its noncompete agreements with dentists at the PCs it manages.

6. Attached as Exhibit 3 are cited excerpts from the Deposition of Dr. Leroy Russell Misner, Jr. taken in this action on July 1, 2004.

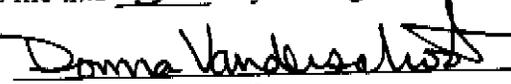
7. Attached as Exhibit 4 is a public records printout showing that Orthodontic Centers of Idaho has a registered agent in Boise.

DATED: July 28, 2004.

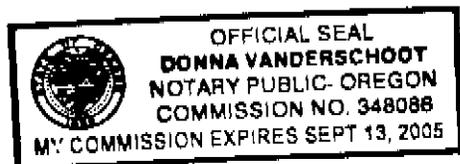


Scott J. Kaplan

SUBSCRIBED AND SWORN to before me this 3rd day of August, 2004.



Notary Public for Oregon



AFFIDAVIT OF SCOTT J. KAPLAN IN OPPOSITION TO ORTHODONTIC CENTERS OF IDAHO, INC.'S MOTION TO QUASH - 3

Portlnd3-1488107.1 0021164-00081

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FILED 04 JUL 21 11 26 USDC-ORE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ORTHALLIANCE, INC.

Plaintiff,

v.

DR. KENNETH GREENBAUM and
GREENBAUM ORTHODONTICS, P.C.,

Defendants.

Civil Case No. 04-6238-AC

COMPLAINT (Breach of Contract,
Promissory Estoppel and Unjust Enrichment)

Jury Trial Demanded

OrthAlliance, Inc. ("OrthAlliance") brings these claims against Dr. Kenneth Greenbaum and Greenbaum Orthodontics, P.C., as stated below:

1.

OrthAlliance is a Delaware corporation duly authorized to conduct business in Georgia. OrthAlliance's principle place of business is in California.

2.

Dr. Kenneth Greenbaum ("Dr. Greenbaum") is a resident of Oregon.

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3.

Greenbaum Orthodontics, P.C. ("PC") is an Oregon professional corporation with its principal place of business in Oregon.

4.

Complete diversity exists and this is an action for damages in excess of \$75,000, exclusive of interest, costs and attorneys' fees. 28 U.S.C. § 1332.

5.

Venue is proper in this district under 28 U.S.C. §1391 because the defendant resides in this district. Venue is also proper because a substantial part of the events giving rise to the claims occurred in this district.

6.

The Plaintiff provides practice management, personnel and business services to dentists around the nation. Dr. Greenbaum chose to join OrthAlliance. Dr. Greenbaum sold OrthAlliance his non-professional physical assets for stock, cash or both. Concurrently, Dr. Greenbaum caused PC to enter into a Service Agreement with OrthAlliance, which agreed to provide to PC practice management services. In return, Dr. Greenbaum received \$1,390,967 in total consideration and agreed to remain working at PC for a certain period and to not compete with PC following his employment for a limited time and within a limited territory. A true copy of the service agreement is attached hereto as Exhibit 1 and incorporated herein by this reference.

7.

Under the Service Agreement, OrthAlliance and PC agreed that OrthAlliance would provide PC with practice management, financial and marketing services, and such facilities,

equipment, and support personnel as reasonably required by PC to operate, as determined by OrthAlliance in consultation with PC and Dr. Greenbaum. OrthAlliance undertook to provide business and management services to PC.

8.

The Service Agreement meticulously preserved the integrity of the professional relationship between Dr. Greenbaum and his patients and left all clinical aspects of treatment to the dentists. It provided that Dr. Greenbaum and PC retained control over all aspects of the course of treatment of any patients. PC was to maintain complete care, custody and control over the office facilities. Dr. Greenbaum was responsible for the direct professional supervision and control of all hygienists, assistants and other orthodontic staff in the rendering of patient care. PC and Dr. Greenbaum were obligated to provide professional services to patients in compliance at all times with ethical standards, laws and regulations applying to the dental profession, including those in the state of Oregon.

9.

Under the Service Agreement, PC deposited its accounts receivable into a bank account with PC's name on it. PC expenses were paid from this account. All expenses of PC that were paid by OrthAlliance were direct pass-throughs, meaning PC paid only the actual cost of things such as rent, electricity, etc. OrthAlliance typically received its service fees from this account after all PC expenses were paid and a draw was issued to PC.

10.

The Service Agreement also contains a covenant not to compete ("Non-Compete"). The Non-Compete prohibits PC from opening any additional offices within a ten-mile radius of their existing locations without the consent of OrthAlliance and from advertising or soliciting patients,

staff or referrals for a period of two years after the termination of the Service Agreement. The Service Agreement further obligates PC to enter into an employment agreement with Dr. Greenbaum or other dentists employed by PC to provide dental services ("Employment Agreement"). A true copy of the employment agreement is attached hereto as Exhibit 2 and incorporated herein by this reference.

11.

The Employment Agreement between PC and Dr. Greenbaum required him to work for PC for a certain initial term and contained restrictive covenants similar to those found in the Service Agreement.

12.

PC stopped depositing its revenues as required by the Service Agreement. Since then, PC has been in breach of its agreement with OrthAlliance. As well, Dr. Greenbaum has violated his Employment Agreement with PC.

13.

The corporate veil of PC should be pierced and Dr. Greenbaum held individually liable. PC has become a sham. It has functioned as the alter ego of Dr. Greenbaum. On information and belief, Dr. Greenbaum has failed to keep PC's property separate from his own, has complete control over PC and has used PC for personal purposes.

14.

All conditions precedent to the filing and maintenance of these claims have been performed, excused or waived.

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Count One
Breach of Service Agreement

15.

OrthAlliance and PC entered into a long-term Service Agreement whereby OrthAlliance would make available numerous services necessary for PC to conduct its business. In return, PC agreed to pay OrthAlliance service fees. PC breached the Service Agreement by failing to pay the required service fees.

16.

OrthAlliance and PC agreed in the Service Agreement that OrthAlliance's services were only feasible if PC operated an active practice where dentists devoted their full time and attention. PC agreed to employ only dentists that entered into an "Employment Agreement" in substantially the form provided by OrthAlliance. PC breached the Service Agreement by either employing dentists who did not sign an Employment Agreement or by failing to enforce the Employment Agreements it has with dentists practicing at PC.

17.

OrthAlliance and PC agreed in the Service Agreement that all materials that OrthAlliance provided to PC were "Confidential Information" and that PC would not use the "Confidential Information" for any purpose other than as contemplated and required by the Service Agreement. PC breached the Service Agreement by using OrthAlliance's "Confidential Information" for purposes outside of those allowed by the Service Agreement.

18.

OrthAlliance and PC agreed in the Service Agreement that PC and its shareholders would comply with a limited "Covenant Not to Compete." PC has breached the Service Agreement's "Covenant Not to Compete" in violation with that covenant.

19.

PC has attempted but failed to terminate the Service Agreement. Specifically, PC may terminate the Service Agreement if PC provides OrthAlliance with specific written notice of a material default of OrthAlliance's obligations under the Service Agreement and OrthAlliance then fails to cure within the time allowed by the Service Agreement. PC failed to terminate the Service Agreement for one or more of the following reasons:

- a. PC was in material default before it sent the default letter;
- b. at the time of PC'S notice letter, OrthAlliance was not in material default in its performance of any duties or obligations imposed upon it under the Service Agreement;
- c. PC failed to provide OrthAlliance with a written notice containing the specific details of OrthAlliance's default; and
- d. PC hindered and prevented OrthAlliance from cure.

20.

Under the Service Agreement, PC has the absolute right to control its practice. In response to PC's default notice, and within 90 days of that notice, OrthAlliance commenced cure, but PC has chosen to disallow and refused to permit OrthAlliance's proposed cure. The period allowed for OrthAlliance to cure has yet to expire because, due to PC's conduct, cure is not capable within the 90-day period.

21.

OrthAlliance was ready and willing to meet its duties and obligations under the Service Agreement. However, under the Service Agreement and the law, PC and its dentists have the absolute right to control all elements of the practice. OrthAlliance is but an independent contractor and cannot force PC or its dentists to use, accept or allow any of its services unless and until PC and its dentists agree. OrthAlliance neither has had nor has exercised control over

the PC or its dentists. Prior to and since PC's default letter, PC and Dr. Greenbaum refused to allow OrthAlliance to perform many of its duties and obligations under the Service Agreement. Under the Service Agreement, OrthAlliance is excused from providing any services to PC for so long as PC or its dentists do not allow OrthAlliance to provide the services and for a reasonable period thereafter. The reasonable period thereafter has yet to occur.

22.

OrthAlliance is not now, nor has it ever been, in breach of the Service Agreement. PC has not lawfully terminated the Service Agreement. OrthAlliance has been damaged by PC's conduct.

23.

As described above, the Court should pierce the corporate veil separating Dr. Greenbaum and PC. Because the technical distinction between Dr. Greenbaum and PC is a sham, Dr. Greenbaum is liable for PC's breach of contract.

Count Two
Breach of the Employment Agreement

24.

Dr. Greenbaum breached the Employment Agreement by failing to perform as required by that agreement. OrthAlliance was expressly made a third party beneficiary of the agreement through the "Amendment to Employment Agreement." The Plaintiffs have been damaged by Dr. Greenbaum's breach because he and PC are competing with the Plaintiffs in violation of the Employment Agreement by performing dental practice management functions.

25.

OrthAlliance and Dr. Greenbaum agreed in the Employment Agreement that all materials that OrthAlliance provided to Dr. Greenbaum were "Confidential Information" and that Dr.

Greenbaum would not use the "Confidential Information" for any purpose other than as contemplated and required by the Employment Agreement. Dr. Greenbaum breached the Employment Agreement by using OrthAlliance's "Confidential Information" for purposes outside of those allowed by the Employment Agreement.

Count Three
Promissory Estoppel

26.

To perform its obligations under the agreements, OrthAlliance was required to make a large initial outlay of consideration and other resources to PC and Dr. Greenbaum. OrthAlliance would derive meaningful benefits and returns under the Service Agreement only if the Service Agreement remained in effect over a long-term.

27.

To date, OrthAlliance has fully, timely and properly provided all services under the Service Agreement. As a result, PC and Dr. Greenbaum have derived substantial benefits from the services provided by OrthAlliance.

28.

At the time of the execution of the Purchase Agreement and thereafter, PC and Dr. Greenbaum represented to OrthAlliance that they would fully perform their obligations.

29.

Through its statements, promises, acts and actions, PC and Dr. Greenbaum led OrthAlliance to believe they were committed to a long-term relationship with OrthAlliance. To enter the Service Agreement, OrthAlliance relied upon the statements, promises, acts and actions of PC and Dr. Greenbaum.

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30.

PC and Dr. Greenbaum knew that OrthAlliance relied upon their statements, promises, acts and actions.

31.

OrthAlliance reasonably relied upon the statements, promises, acts and actions of PC and Dr. Greenbaum, all to the detriment of OrthAlliance.

32.

OrthAlliance was significantly damaged as a result of its detrimental reliance, in an amount to be determined at trial.

Count Four
Unjust Enrichment

33.

As a result of the services of OrthAlliance, PC and Dr. Greenbaum greatly benefited from the affiliation with OrthAlliance. The benefits included the consideration paid by OrthAlliance to Dr. Greenbaum and the tools provided by OrthAlliance to help increase the productivity of PC and Dr. Greenbaum.

34.

PC and Dr. Greenbaum knowingly accepted these benefits, all of which were provided to PC and Dr. Greenbaum pursuant to the agreements executed between OrthAlliance and PC. In exchange for the consideration and the increased benefits to PC and Dr. Greenbaum, OrthAlliance relied upon the reasonable expectation of a long-term contractual relationship with PC.

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35.

OrthAlliance is entitled to full and fair compensation from PC and Dr. Greenbaum for the payments and services provided to them under the Service Agreement and all other agreements.

36.

OrthAlliance has been paid only a small portion of the amount due under the contract between PC and OrthAlliance. As a result of PC and Dr. Greenbaum receiving the benefit of the services of OrthAlliance, but failing to compensate it fully and fairly for those services, PC and Dr. Greenbaum have been unjustly enriched.

37.

In order to rectify the unjust enrichment of PC and Dr. Greenbaum resulting from the payments and services of OrthAlliance, PC and Dr. Greenbaum must compensate OrthAlliance in full and in an amount of damages to be determined at trial.

38.

As a result of PC's and Dr. Greenbaum's acts, the Plaintiff was forced to hire attorneys to prosecute its claims against PC and Dr. Greenbaum in this lawsuit. Pursuant to law and the various agreements, Plaintiff seeks recovery of its attorneys' fees and costs in this matter.

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WHEREFORE, Plaintiff prays for a judgment providing the following relief:

- a. A judgment in its favor against PC, Dr. Greenbaum or both for damages to be determined at trial;
- b. Interest on the unpaid service fees, costs of collection and attorneys' fees;
- c. Costs of suit; and
- d. All other relief to which the Plaintiff is entitled at law and equity.

Respectfully submitted this 21st day of July, 2004.

WATKINSON LAIRD RUBENSTEIN BALDWIN & BURGESS, P.C.

By



Stephanie T. Chandler, OSB# 99384
Steve C. Baldwin, OSB#83144
(541) 484-2277
Of Attorneys for Plaintiff

CONSULTING AND BUSINESS SERVICES AGREEMENT

THIS CONSULTING AND BUSINESS SERVICES AGREEMENT (this "Agreement"), is entered into as of November 11, 1997, by and between ORTHALLIANCE, INC., a Delaware corporation, and its successors or assigns ("OrthAlliance") and GREENBAUM ORTHODONTICS, P.C., an Oregon corporation (the "Orthodontic Entity").

RECITALS

WHEREAS, the Orthodontic Entity owns and operates an orthodontic practice with offices located in the facilities identified in Exhibit 1.2 (individually and collectively referred to as the "Center") and furnishes orthodontic and other dental care to the general public through the services of the orthodontist(s) and dentist(s) affiliated with the Orthodontic Entity to provide patient care at the Center(s) (the "Orthodontist(s)"); and

WHEREAS, OrthAlliance provides business and consulting services to orthodontists; and

WHEREAS, the Orthodontic Entity and OrthAlliance mutually desire to enter into this Consulting and Business Services Agreement.

NOW THEREFORE, in consideration of Ten Dollars (\$10.00), the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. RESPONSIBILITIES OF ORTHALLIANCE

1.1 General. OrthAlliance shall furnish the Orthodontic Entity the business and consulting services described in this Agreement, subject to the requirements of Oregon law relating to, without limitations, the control by dentists over the practice of dentistry.

1.2 Facilities and Equipment. OrthAlliance will consult with and advise the Orthodontic Entity on its equipment and office needs and the efficient configuration of its office space and will arrange for all equipment and furnishings determined by the Orthodontic Entity to be necessary for the operation of the Center, as specified on Exhibit 1.2 (together with any future asset purchases in accordance herewith, the "Assets"). The Orthodontic Entity shall have complete custody and control over the Assets provided to the Orthodontic Entity by OrthAlliance, including, without limitation, the right to make decisions, after consultation with OrthAlliance, with respect to the repair, replacement, modification and upkeep of such Assets. Unless the Orthodontic Entity chooses to directly purchase furnishings, equipment and related assets in the future, OrthAlliance shall purchase such assets and lease such assets to the Orthodontic Entity under a capital leasing arrangement with such terms as mutually agreed to by the Orthodontic Entity and OrthAlliance. If the Orthodontic Entity chooses to purchase such assets, then it shall depreciate such assets in accordance with generally accepted accounting principles ("GAAP").

1.3 Personnel and Payroll. OrthAlliance will consult with the Orthodontic Entity on its staffing needs. OrthAlliance will employ the staff (including, without limitation, the dental assistants and dental technicians) determined by the Orthodontic Entity to be necessary for the Center's operations, as specified on Exhibit 1.3, except for the Orthodontists and dental hygienists, who will be employed by the Orthodontic Entity. At the election of the Orthodontic Entity, OrthAlliance will additionally assist in staff scheduling, administer the Center's payroll and provide payroll accounting services. The parties expressly agree that the Orthodontic Entity will have discretion and control over all personnel and staffing matters in respect to the Center's staff.

1.4 Business Systems, Procedures and Forms. OrthAlliance will advise the Orthodontic Entity on and assist in the implementation and operation of business systems and procedures. OrthAlliance will provide training to the Center's staff in the use of such systems and procedures. OrthAlliance will additionally provide the Orthodontic Entity clinical forms developed in consultation with the Orthodontic Entity and will provide training to the Center's staff in the use of such forms. The Orthodontic Entity expressly acknowledges

and agrees that it shall have no property rights in the foregoing systems, procedures or clinical forms, and further agrees that such systems, procedures and form shall be deemed to constitute Confidential Information within the meaning of Section 2.8 hereof and shall be subject to the restrictions on the use, appropriation and reproduction of such Confidential Information provided for in Section 2.8. The parties agree that the Orthodontic Entity's use of any such systems, procedures and forms shall be at the Orthodontic Entity's sole discretion and, notwithstanding its use of any such systems, procedures, or forms, the Orthodontic Entity shall retain control over the management of all aspects of the Center's operations, including, without limitation, patient scheduling.

1.5 Purchasing and Inventory Control. OrthAlliance in consultation with the Orthodontic Entity, will provide the Orthodontic Entity purchasing services for inventory and supplies and will be responsible for maintaining the Center's inventory. The price charged to the Center for such inventory and supplies shall be the same as the price paid by OrthAlliance, including any rebates, but subject to OrthAlliance first recovering its costs of its group purchasing program from any such rebates that may be earned. Orthodontic Entity shall maintain any information relating to any such rebates as confidential. In any event, the Orthodontic Entity has the right to purchase its supplies from the supplier of its choice.

1.6 Accounting Services and Financial Reporting. OrthAlliance will advise the Orthodontic Entity with respect to and provide or arrange for all accounting and bookkeeping services reasonably required for the Center's normal and routine operations. OrthAlliance will additionally advise the Orthodontic Entity on and assist in implementing information systems designed in consultation with the Orthodontic Entity to generate financial and operational data concerning the Center. OrthAlliance will prepare and submit to the Orthodontic Entity monthly operating data and quarterly financial reports with respect to the Center's operations. OrthAlliance will analyze such data on an ongoing basis to advise the Center on improving productivity.

1.7 Legal Services. OrthAlliance shall arrange for all legal services reasonably required by the Center, excluding the costs of malpractice litigation which shall be the sole responsibility of the Orthodontist.

1.8 Marketing. OrthAlliance will advise the Orthodontic Entity in designing and assist in executing a marketing plan to promote the Center's professional services. In connection with the development of the marketing plan, OrthAlliance will advise the Orthodontic Entity on establishing an installment plan for patient payments, and, in the event the Orthodontic Entity elects to offer such a plan, will assist in implementing and administering the plan. The Orthodontic Entity shall exercise sole discretion and control over all policies and decisions relating to marketing, pricing, credits, refunds, warranties and advertising. All marketing activities hereunder will be conducted in compliance with applicable laws and regulations of the State of Oregon governing the dental profession.

1.9 Planning. OrthAlliance will assess the business potential of establishing orthodontic offices in new locations, and, in the event the Orthodontic Entity elects to relocate or open an office in a new location, subject to mutual agreement, OrthAlliance will provide assistance to the Orthodontic Entity as appropriate.

1.10 Billing and Collections. OrthAlliance shall provide billing and collection services for all professional services rendered at the Center, all such billing and collections to be done in the name of and subject to the control of the Orthodontic Entity.

1.11 Payment Services. On a continuous basis, the accounts receivable of the Orthodontic Entity shall be deposited with OrthAlliance for the Orthodontic Entity's account, and OrthAlliance shall use the funds collected from such accounts receivable to pay the Consulting Fee (as hereinafter defined) and to pay, on the Orthodontic Entity's behalf as a Center Expense (as hereinafter defined) and otherwise, all expenses of the Orthodontic Entity duly authorized for payment by the Orthodontic Entity and shall return to the Orthodontic Entity any funds remaining after payment in full of such items.

1.12 Disbursement of Funds. (a) All monies collected by OrthAlliance from the Orthodontic Entity's accounts receivable pursuant to Section 1.10 above shall be deposited into an account (the "Orthodontic Entity Account") with a bank whose deposits are insured with the Federal Deposit Insurance

Corporation. The Orthodontic Entity Account shall contain the name of the Orthodontic Entity, but OrthAlliance shall make all disbursements therefrom. OrthAlliance shall account for all monies so disbursed from the Orthodontic Entity Account. From the funds collected and deposited each month by OrthAlliance in the Orthodontic Entity Account, OrthAlliance shall make the following disbursements, among others, promptly when payable.

(i) Payment of the Consulting Fee (as defined in Section 3.1);

(ii) All other sums otherwise due and payable by the Orthodontic Entity as Center Expenses (as defined in Article III); and

(iii) The balance to the Orthodontic Entity in the form of a draw, subject to a reasonable reserve for anticipated expenses, which shall be adjusted quarterly, which is to be used by the Orthodontic Entity for among other things, compensation payable to all employees of the Orthodontic Entity, and all taxes and assessments payable to local, state and Federal governments in connection with the employment of such personnel.

(b) In the event the funds in the Orthodontic Entity Account will, at any time, be insufficient to cover current expenses, OrthAlliance shall notify the Orthodontic Entity and OrthAlliance shall advance the necessary funds to pay current expenses for the benefit of the Orthodontic Entity, which advances will be deemed to be loans to the Orthodontic Entity to be repaid upon such terms as agreed to by the Orthodontic Entity and OrthAlliance, which repayment shall be deemed a Center Expense for purposes of Article III hereof; provided, however, that any outstanding principal amount of such indebtedness exceeding the amount of the total accounts receivable purchased by OrthAlliance pursuant to that certain Agreement and Plan of Reorganization between OrthAlliance and Kenneth R. Greenbaum, D.D.S., M.S., P.C. shall bear interest at an annual rate adjusted on the first calendar day of each month to reflect that certain rate from time to time published by the Wall Street Journal as the prime rate, as of the last business day of the immediately preceding month for which such prime rate was published (the "Prime Rate"), plus one percent (1%).

1.13 Records. OrthAlliance shall organize and develop systems in consultation with the Orthodontic Entity with respect to all files and records relating to the business operations of the Center, including, but not limited to, accounting, billing and collection records. The parties expressly acknowledge and agree that patient records shall at all times be and remain the property and under the control of the Orthodontist and shall be located at the Orthodontic Entity's facilities so that they are readily accessible for patient care. The management of all files and records shall comply with applicable state and federal statutes. OrthAlliance shall use its reasonable efforts to preserve the confidentiality of patient medical records and use information contained in such records only for the limited purpose necessary to perform the services set forth herein; provided, however, in no event shall a breach of said confidentiality be deemed a default under this Agreement.

II. OBLIGATIONS OF THE ORTHODONTIC ENTITY

2.1 General. The Orthodontic Entity will be responsible for the management of the Center, in accordance with the requirements of Oregon Law.

2.2 Employment of Orthodontists and Rendering of Patient Care. The Orthodontic Entity will be responsible for the employment of all Orthodontist(s) and hygienists affiliated with the Orthodontic Entity and supervision of all care and services rendered to patients.

2.3 Professional Services. The Orthodontic Entity shall use and occupy the offices and facilities designated on Exhibit 1.2 exclusively for the practice of orthodontic and general dentistry services and shall comply with all applicable local rules, ordinances and all standards of dental and orthodontic care. It is expressly acknowledged by the parties that the orthodontic practice conducted at the Center shall be conducted solely by the Orthodontists associated with the Orthodontic Entity except those additional orthodontists employed by the general dentists' offices from which the Orthodontic Entity rents only space, and no other orthodontist shall be permitted to use or occupy the Center or Centers, except as provided in Exhibit 2.3. The Orthodontic Entity

shall provide professional services to patients hereunder in compliance at all times with ethical standards and laws and regulations applying to the dental profession. The Orthodontic Entity shall ensure that each Orthodontist providing orthodontic or dental services to patients is licensed by the state in which the Center is located. In the event that any disciplinary, medical malpractice or other actions are initiated against any such Orthodontist, the Orthodontic Entity shall immediately inform OrthAlliance of such action and the underlying facts and circumstances. The Orthodontic Entity agrees to cooperate with and participate in the quality assurance/utilization review programs established by OrthAlliance or mandated by accreditation and/or licensure standards applicable to the practice of orthodontics and dentistry. Deficiencies discovered in the performance of any personnel or in the quality of professional services shall be reported immediately to OrthAlliance, and appropriate steps shall be taken by the Orthodontic Entity at once to remedy such deficiencies.

2.4 Records. The Orthodontic Entity will keep or cause to be kept accurate, complete and timely medical and other records of all patients. Such records shall be sufficient to enable OrthAlliance, on behalf of the Orthodontic Entity, to obtain payment for the services and facilities and to facilitate the delivery of quality patient care by the Orthodontist.

2.5 Professional Expenses. Payments expended each fiscal year by the Orthodontic Entity on behalf of the Orthodontist and other orthodontists or dentists delivering patient care at the Center(s) for continuing education, seminars, professional license fees and dues, professional memberships, expenses related to a company automobile for the Orthodontist, and all other expenses of the Orthodontist and other orthodontists and dentists delivering patient care at the Center(s) that do not directly benefit the Orthodontic Entity (as reasonably determined by OrthAlliance), up to the amount of three percent (3%) of the Orthodontic Entity's Adjusted Gross Revenue, shall be considered a Center Expense. Notwithstanding the foregoing, since OrthAlliance will pay for such expenses from the Orthodontic Entity Account, even if such expenses are not Center Expenses, such expenses will reduce the amount of the Orthodontic Entity's draw under Section 1.12(iii) above. The Orthodontic Entity shall ensure that the Orthodontist participates in such continuing education as is necessary for such Orthodontist to remain current.

2.6 Professional Insurance Eligibility. The Orthodontic Entity shall cooperate in the obtaining and retaining of professional liability insurance by assuring that each of its Orthodontists is insurable and participating in an on-going risk management program.

2.7 Employment Agreement. The parties recognize that the services to be provided by OrthAlliance are feasible only if the Orthodontic Entity operates an active orthodontic practice to which it and each orthodontist associated with the Orthodontic Entity devote their full time and attention. Simultaneously with the execution of this Agreement, each Orthodontist who is or becomes an equity owner of the Orthodontic Entity or delivers patient care at the Center(s) on average more than ten (10) days each month, whether on the date hereof or at any time during the term of this Agreement, shall enter into an employment agreement with the Orthodontic Entity in substantially the form of that certain Employment Agreement dated of even date herewith by and between the Orthodontic Entity and the principal Orthodontist(s) of the Orthodontic Entity.

2.8 Confidentiality. The Orthodontic Entity agrees and acknowledges that all materials provided by OrthAlliance or a OrthAlliance Affiliate (as hereinafter defined) to the Orthodontic Entity, including all trade secrets, constitute "Confidential Information" and are disclosed in confidence and with the understanding that it constitutes valuable business information developed by OrthAlliance at great expenditures of time, effort, and money. Trade secrets are property rights protected by law and, for purposes of this letter, shall have the meaning provided under applicable Oregon law. The Orthodontic Entity further agrees that it shall not, directly or indirectly, without the express prior written consent of OrthAlliance, use or disclose such Confidential Information for any purpose other than in connection with the services to be rendered hereunder. The Orthodontic Entity further agrees: (i) to keep strictly confidential and hold in trust all Confidential Information and not disclose such Confidential Information to any third party without the express prior written consent of OrthAlliance; and (ii) to impose this obligation of confidentiality on its affiliates, co-owners, associates, partners, employees, shareholders, members and independent contractors. The Orthodontic Entity acknowledges that the

disclosure of Confidential Information to it by OrthAlliance is done in reliance upon its representations and covenants in this Agreement. Upon expiration or termination of this Agreement by either party for any reason whatsoever, the Orthodontic Entity shall immediately return and shall cause its affiliates, co-owners, associates, partners, employees, shareholders, members and independent contractors to immediately return to OrthAlliance all Confidential Information (only to the extent such Confidential Information does not include patient information), and the Orthodontic Entity will not, and will cause its affiliates, co-owners, associates, partners, employees, shareholders, members and independent contractors not to, thereafter use, appropriate, or reproduce such Confidential Information. The Orthodontic Entity further expressly acknowledges and agrees that any such use, appropriation, or reproduction of any such Confidential Information by any of the foregoing after the expiration or termination of this Agreement will result in irreparable injury to OrthAlliance, that the remedy at law for the foregoing would be inadequate, and that in the event of any such use, appropriation, or reproduction of any such Confidential Information after the termination or expiration of this Agreement, OrthAlliance, in addition to any other remedies which may be available to it, shall be entitled to injunctive or other equitable relief. As used in this Agreement, the term "OrthAlliance Affiliate" shall mean (i) each corporation or other business entity directly or indirectly controlling, controlled by, or under common control with OrthAlliance and (ii) each orthodontic or dental practice to which OrthAlliance provides management or consulting services, the employees and principals of such practices, and each corporation or other business entity directly or indirectly controlling, controlled by, or under common control with each such practice or the principals thereof.

2.9 Covenant Not to Compete. During the term of this Agreement, the Orthodontic Entity, and any of its members or shareholders, agrees not to establish, develop or open any offices for the provision of orthodontic services within a ten (10) mile radius of any of the Centers covered by this Agreement (the "Area of Dominant Influence") without the express written consent of OrthAlliance. For a period of two (2) years following the termination of this Agreement, the Orthodontic Entity and any of its members or shareholders shall be prohibited within the Area of Dominant Influence (i) from advertising in print (except for yellow page advertising and announcements for the opening of a practice) or electronic media of any kind, (ii) from soliciting in any manner patients, orthodontists or staff associated with the Centers, and (iii) from soliciting any referrals from any dentist who referred one or more patients to the Center within the three (3) years prior to the date of such termination. In the event the Orthodontic Entity terminates this Agreement pursuant to Section 5.2(b), then this Section 2.9 shall be void and of no further effect; provided, however, the remainder of this Agreement shall remain in full force and effect.

III. FINANCIAL ARRANGEMENTS

3.1 Consulting Fees. OrthAlliance shall receive an annual Consulting Fee, subject to the provisions of Section 3.3 below, of 17% of the Adjusted Gross Revenue (based on the cash method of accounting), except that during the first five (5) years of the term of this Agreement, the Consulting Fee will be the greater of such 17% or (ii) \$225,204 per year. Except as otherwise provided, the amounts to be paid to OrthAlliance under this Section 3.1 shall be payable monthly in arrears on the date that the Orthodontic Entity's financial statements for such period are completed. The amounts shall be paid based upon the previous month's operating results of the Center. Upon preparation of quarterly financial statements, final adjustments to the Consulting Fee for the quarter within forty-five (45) days after the end of each financial quarter, adjustments to the Consulting Fee for the quarter, if any are required, shall be made. OrthAlliance shall remit any amounts owing to the Orthodontic Entity (as a result of a quarterly adjustment) to the Orthodontic Entity. Any amounts owing to OrthAlliance by the Orthodontic Entity (as a result of a quarterly adjustment) shall be deemed a Center Expense and paid as provided herein. Any audit adjustments shall be reflected in the calculations for the fourth quarter. In addition to the Consulting Fee, the Orthodontic Entity shall pay to OrthAlliance 25% of any reduction of the Center's annual overhead percentage during the then current calendar year of the term hereof, as compared to the immediately preceding year as reasonably determined by OrthAlliance multiplied by the then current calendar year's Adjusted Gross Revenue. Such additional fee shall be paid as of the end of each calendar year during the term hereof. See Exhibit 3.1 sets forth an example of the calculation of the additional fee.

3.2 Center Expenses. OrthAlliance shall be responsible for the payment of all Center Expenses, as defined below, during the term of this Agreement and the Orthodontic Entity shall immediately reimburse OrthAlliance for such payments from funds held in the Orthodontic Entity Account.

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3.3 Definitions. For the purposes of this Agreement, the following definitions shall apply:

(a) "Adjusted Gross Revenue" shall mean Gross Revenue of the Center less any Adjustments, based on the cash method of accounting.

(b) "Adjustments" shall mean any adjustments to Gross Revenue for uncollectible accounts, professional courtesies and other activities, contractual allowances and discounts that do not generate a collectible fee.

(c) "Center Expenses" shall mean all operating and non-operating expenses incurred in the operation of the Center, including, without limitation:

(i) Salaries, benefits, payroll taxes, workers compensation, health insurance, 401(k) and other benefit plans, and other direct costs of all employees of OrthAlliance at the Center, including dental assistants (but excluding all Orthodontists); provided that only expenses for health insurance, 401(k) and other benefit plans approved by the Orthodontic Entity shall be included;

(ii) Direct costs of all employees or consultants of OrthAlliance who, upon mutual agreement of OrthAlliance and the Orthodontic Entity, provide services at or, if consented to by the Orthodontic Entity, in connection with the Center required for improved clinic performance, such as work management, materials management, purchasing, charge and coding analysis, and business office consultation;

(iii) Obligations of OrthAlliance under leases or subleases entered into in connection with the operation of the Center;

(iv) Personal property and intangible taxes assessed against OrthAlliance's assets used in connection with the operation of the Center, commencing on the date of this Agreement;

(v) Malpractice insurance expenses and Orthodontist recruitment expenses as agreed to by OrthAlliance and the Orthodontic Entity;

(vi) Property, casualty and liability insurance for the Center and its operations;

(vii) In the event an opportunity arises for additional Orthodontists in the Area of Dominant Influence to become employed by or merge with the Orthodontic Entity, actual out-of-pocket expenses of OrthAlliance personnel working on a specified merger, whether or not such merger is completed if such merger is approved or requested by the Orthodontic Entity;

(viii) Amortization of intangible asset value as a result of each such acquisition referred to in subsection (vii) above;

(ix) Depreciation of all OrthAlliance assets used by the Orthodontic Entity in the operation of the Center;

(x) Repayment of interest on any funds loaned to the Orthodontic Entity by OrthAlliance in connection with the operation of the Center, at an interest rate not in excess of the Prime Rate plus one percent (1%);

(xi) Advertising and other marketing expenses attributable to the

promotion of the Center and/or its Orthodontist(s); and

(xii) Other expenses incurred by OrthAlliance with the consent of the Orthodontic Entity in carrying out its obligations under this Agreement for the benefit of the Center or the Orthodontic Entity; provided, however, that such expenses shall not include OrthAlliance's home office overhead expenses.

"Center Expenses" shall not include:

(i) Any federal or state income taxes; or

(ii) Any professional expenses described in Section 2.5 hereof in excess of three percent (3%) of the Orthodontic Entity's Adjusted Gross Revenue.

(d) "Contract" shall mean the agreement entered into by patients with the Orthodontic Entity for the provision of orthodontic services at a predetermined fee for an estimated period of treatment.

(e) "Gross Revenue" shall mean all fees and charges recorded or booked each month by or on behalf of the Orthodontic Entity as a result of professional orthodontic or other dental services personally furnished to patients by the Orthodontist and those under the Orthodontist's supervision and other fees or income generated in their capacity as a professional prior to any Adjustments.

3.4 Additional Facilities. In the event the parties agree to add an additional facility in which the Orthodontic Entity will provide services, the consulting fees payable to OrthAlliance shall be determined by aggregating the results of the operations of such additional facility with the results of the operations of the existing Center or Centers and such fees payable to OrthAlliance shall be calculated pursuant to the provisions of Section 3.1. All other provisions of this Article III shall apply to any additional facilities. As part of its strategic growth strategy, OrthAlliance plans to provide capital support or arrange favorable funding for orthodontic practice expansion and development. Any expenditures on practice growth, acquisition or development shall be subject to approval by OrthAlliance's Board of Directors.

IV. INSURANCE AND INDEMNITY

4.1 Insurance to be Maintained by the Orthodontic Entity. Throughout the term of this Agreement, the Orthodontic Entity shall maintain comprehensive professional liability insurance with limits of not less than \$300,000 per claim and with aggregate policy limits of not less than \$1,000,000 per Orthodontist providing services at the Center and a separate limit for the Orthodontic Entity or such other amounts required by the applicable state laws, regulations, rules or directives. The Orthodontic Entity shall be responsible for all such liabilities in excess of the limits of such policies. OrthAlliance agrees to negotiate for and cause premiums to be paid with respect to such insurance. Premiums and deductibles with respect to such policies shall be a Center Expense.

4.2 Insurance to be Maintained by OrthAlliance. Throughout the term of this Agreement, OrthAlliance will use reasonable efforts to provide and maintain, as a Center Expense, comprehensive general liability and property insurance covering the Center premises and operations.

4.3 Tail Insurance Coverage. The Orthodontic Entity will cause each individual Orthodontist providing services at the Center to enter into an agreement with the Orthodontic Entity that upon termination of such Orthodontic Entity's relationship with the Orthodontist, for any reason, tail insurance coverage for a period of three (3) years will be purchased by each Orthodontist, unless insurance is otherwise maintained on a claims made basis during such three (3) year period. Such provisions may be contained in employment agreements, restrictive covenant agreements or other agreements entered into by the Orthodontic Entity and the individual Orthodontists, and the Orthodontic Entity hereby covenants with OrthAlliance to enforce such provisions relating to the tail insurance coverage or to provide such coverage at the expense of the

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Orthodontic Entity.

4.4 Additional Insureds. The Orthodontic Entity shall have OrthAlliance named as an additional insured on the Orthodontic Entity's professional liability insurance programs, to the extent possible.

4.5 Indemnification. The Orthodontic Entity shall indemnify, hold harmless and defend OrthAlliance, its officers, directors, shareholders, members and employees, from and against any and all liabilities, losses, damages, claims, causes of action, and expenses (including reasonable attorneys' fees), whether or not covered by insurance, caused or asserted to have been caused, directly or indirectly, by or as a result of the performance of medical, dental or orthodontic services or the performance of any intentional acts, negligent acts or omissions by the Orthodontic Entity and/or its affiliates, shareholders, members, agents, employees and/or subcontractors (other than OrthAlliance) prior to and after the date of this Agreement and throughout the term hereof. OrthAlliance shall indemnify, hold harmless and defend the Orthodontic Entity, and its directors, shareholders, members and employees, from and against any and all liabilities, losses, damages, claims, causes of action, and expenses (including reasonable attorneys' fees), caused or asserted to have been caused, directly or indirectly, by or as a result of the performance of any intentional acts, negligent acts or omissions by OrthAlliance, an OrthAlliance Affiliate and/or their members, shareholders, agents, employees and/or subcontractors (other than the Orthodontic Entity) during the term of this Agreement.

V. TERM AND TERMINATION

5.1 Term of Agreement. This Agreement shall commence on the Closing Date, as defined in that certain Agreement and Plan of Reorganization dated of even date herewith by and among OrthAlliance, the predecessor to the Orthodontic Entity and the equity holders thereof, and shall expire on the twenty-fifth (25th) anniversary thereof unless earlier terminated pursuant to the terms hereof.

5.2 Termination by the Orthodontic Entity. The Orthodontic Entity may terminate this Agreement as follows:

(a) In the event of the filing of a petition in voluntary bankruptcy or an assignment for the benefit of creditors by OrthAlliance, or upon other action taken or suffered, voluntarily or involuntarily, under any federal or state law for the benefit of debtors by OrthAlliance, except for the filing of a petition in involuntary bankruptcy against OrthAlliance which is dismissed within thirty (30) days thereafter, the Orthodontic Entity may give written notice of the immediate termination of this Agreement.

(b) In the event OrthAlliance shall materially default in the performance of any duty or obligation imposed upon it by this Agreement and such default shall continue for a period of ninety (90) days after written notice thereof has been given to OrthAlliance by the Orthodontic Entity (which notice shall contain specific details of the reason for such default), the Orthodontic Entity may terminate this Agreement; provided, however, if the nature of such default is such that cure is not capable within said 90-day period, then OrthAlliance shall have such additional time as may be required to effect and complete such cure provided that OrthAlliance shall commence such cure within the aforesaid 90-day period and shall prosecute such cure to completion with reasonable diligence.

(c) In the event that a "Change in Control" (as herein defined) occurs with respect to OrthAlliance, the Orthodontic Entity may, within 10 days after the expiration of the Approval Period (as herein defined), terminate this Agreement by providing five (5) days prior written notice to OrthAlliance. For purposes of this Section, "Change in Control" means an acquisition or aggregation of any voting securities of OrthAlliance by a "person" (as defined in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934) immediately after which such person is or becomes the beneficial owner, directly or indirectly, of 15% or more of the combined voting power of OrthAlliance's then outstanding voting securities; provided, however, that no acquisition or aggregation of OrthAlliance's voting securities shall be deemed a "Change in Control" if such acquisition or aggregation (i) has the prior approval of OrthAlliance's board of directors, or (ii) is approved by OrthAlliance's board of directors within 60 days after OrthAlliance receives notice of such acquisition or aggregation (the "Approval Period").

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5.3 Termination by OrthAlliance. OrthAlliance may terminate this Agreement as follows:

(a) In the event of the filing of a petition in voluntary bankruptcy or an assignment for the benefit of creditors by the Orthodontic Entity, or upon other action taken or suffered, voluntarily or involuntarily, under any federal or state law for the benefit of debtors by the Orthodontic Entity, except for the filing of an involuntary petition in bankruptcy against the Orthodontic Entity which is dismissed within thirty (30) days thereafter, OrthAlliance may give written notice of the immediate termination of this Agreement.

(b) In the event the Orthodontic Entity shall materially default in the performance of any duty or obligation imposed upon it by this Agreement, and such default shall continue for a period of ninety (90) days after written notice thereof has been given to the Orthodontic Entity by OrthAlliance, OrthAlliance may terminate this Agreement.

5.4 Actions after Termination. Upon termination of this Agreement by either party for any reason other than a default by the Orthodontic Entity or upon expiration of this Agreement, the Orthodontic Entity may, and upon termination of this Agreement by OrthAlliance due to the reasons set forth in Section 5.3(b) hereof, the Orthodontic Entity shall:

(a) Purchase all improvements, additions or leasehold improvements which have been made by OrthAlliance and which relate solely to the performance of its obligations under this Agreement at adjusted book value;

(b) Assume all debt and all contracts, payables and leases which are obligations of OrthAlliance and which relate solely to the performance of its obligations under this Agreement or the properties subleased by OrthAlliance; and

(c) Purchase from OrthAlliance at book value all of the equipment of the Center, including all replacements and additions thereto made by OrthAlliance pursuant to the performance of its obligations under this Agreement, and all other assets, including inventory and supplies, tangibles and intangibles (including but not limited to accounts receivable), set forth on the balance sheet prepared for the month most recently ended prior to the date of such termination in accordance with GAAP to reflect operations of the Center, depreciation, amortization and other adjustments of assets shown on such balance sheet.

5.5 Closing of Repurchase by the Orthodontic Entity and Effective Date of Termination. Unless another form of payment is agreed to by OrthAlliance at such time, the Orthodontic Entity shall pay cash to OrthAlliance for (i) the assets repurchased pursuant to Section 5.4 and (ii) an amount equal to the Consulting Fee that would have been payable hereunder for services rendered to patients by the Orthodontic Entity prior to the termination of this Agreement; provided, however, that such cash Consulting Fee payment shall only be made as payment for such services as are actually collected by the Orthodontic Entity. The amount of the purchase price shall be reduced by the amount of debt and liabilities of OrthAlliance assumed by the Orthodontic Entity and shall also be reduced by any payment OrthAlliance has failed to make under this Agreement. The Orthodontic Entity and any Orthodontist associated with the Orthodontic Entity shall execute such documents as may be required to assume the liabilities set forth in Section 5.4(c) and shall use its best efforts to remove OrthAlliance from any liability with respect to such repurchased assets and with respect to any property leased or subleased by OrthAlliance. The closing date for the repurchase shall be determined by the Orthodontic Entity, but shall in no event occur later than 180 days from the date of the notice of termination. The termination of this Agreement shall become effective upon the closing of the sale of the assets and the Orthodontic Entity and OrthAlliance shall be released from the restrictive covenants provided for in Section 2.9 on the closing date. From and after any termination, each party shall provide the other party with reasonable access to books and records then owned by it to permit such requesting party to satisfy reporting and contractual obligations which may be required of it.

5.6 Patient Records. Upon termination of this Agreement, the Orthodontic Entity shall retain all patient medical records maintained by the Orthodontic Entity or OrthAlliance in the name of the Orthodontic Entity. During the term of this Agreement, and thereafter, the Orthodontic Entity or its designee

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shall have reasonable access during normal business hours to the Orthodontic Entity's and OrthAlliance's records, including, but not limited to, records of collections, expenses and disbursements as kept by OrthAlliance in performing OrthAlliance's obligations under this Agreement, and the Orthodontic Entity may copy any or all such records.

VI. INDEPENDENT CONTRACTOR

6.1 Orthodontic Entity's Control Over the Orthodontic Practice. Notwithstanding the authority granted to OrthAlliance herein, OrthAlliance and the Orthodontic Entity agree that the affiliated Orthodontist, personally or through any of his professional employees or agents, shall have complete control and supervision over the business aspects of the Orthodontic Entity's practice, as well as the provision of all professional services, including, without limitation, the selection of a course of treatment for a patient, the procedures or materials to be used as a part of such course of treatment, and the manner in which such course of treatment is carried out by the Orthodontist(s). The Orthodontist(s) shall have sole authority to direct the business, professional, and ethical aspects of the orthodontic practice. OrthAlliance will have no authority, directly or indirectly, to perform, and will not perform, any orthodontic function, or to influence or otherwise interfere with the exercise of the Orthodontist(s) professional judgment. OrthAlliance may, however, advise the Orthodontic Entity as to the relationship between its performance of orthodontic functions and the overall administrative and business functions of its practice.

6.2 Independent Relationship. The Orthodontic Entity and OrthAlliance intend to act and perform as independent contractors, and the provisions hereof are not intended to create any partnership, joint venture, agency or employment relationship between the parties. The Orthodontic Entity will not have any claim under this Agreement, or otherwise, against OrthAlliance for vacation pay, sick leave, unemployment insurance, worker's compensation, disability benefits or employee benefits of any kind.

6.3 Other Professionals. No provision of this Agreement is intended to limit OrthAlliance's right, authority, or ability under applicable law to contract with other dentists or physicians, or to employ, contract with, or enter into any partnership or joint venture with any healthcare professional, provided that the exercise of such right, authority or ability does not contravene the terms of this Agreement.

6.4 Patient Care. Nothing in this Agreement is intended to interfere, or shall be construed as interfering, in any way with the Orthodontist(s)'s ability to independently exercise professional and ethical judgment in the performance of his patient care responsibilities.

VII. GENERAL PROVISIONS

7.1 Assignment. This Agreement shall be assignable by OrthAlliance to any person, firm or corporation that controls or is under common control with OrthAlliance. Except as set forth above, neither OrthAlliance nor the Orthodontic Entity shall have the right to assign their respective rights and obligations hereunder without the written consent of the other party, which consent shall not be unreasonably withheld. Subject to this provision, this Agreement shall be binding upon the parties hereto, and their successors and assigns.

7.2 Whole Agreement; Modification. There are no other agreements or understandings, written or oral, between the parties regarding this Agreement, the Exhibits and the Schedules, other than as set forth herein. This Agreement shall not be modified or amended except by a written document executed by both parties to this Agreement, and such written modification(s) shall be attached hereto.

7.3 Notices. All notices required or permitted by this Agreement shall be in writing and shall be addressed as follows:

To OrthAlliance: OrthAlliance, Inc.
23848 Hawthorne Blvd., Suite 200
Torrance, CA 90505

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Attn.: Sam Westover, President

With a copy to: OrthAlliance, Inc.
23848 Hawthorne Blvd., Suite 200
Torrance, CA 90505
Attn.: Paul H. Hayase, General Counsel

To the Orthodontic Greenbaum Orthodontics, P.C.
Entry: 2450 Lancaster Drive NE, Suite 200
Salem, OR 97305
Attn.: Dr. Kenneth R. Greenbaum

or to such other address as either party shall notify the other.

7.4 Waiver of Provisions. Any waiver of any terms and conditions hereof must be in writing, and signed by the parties hereto. The waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms and conditions hereof.

7.5 Governing Law. The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. The parties acknowledge that OrthAlliance is not authorized or qualified to engage in any activity which may be construed or deemed to constitute the practice of dentistry or orthodontics. To the extent any act or service required of OrthAlliance in this Agreement should be construed or deemed, by any governmental authority, agency or court to constitute the practice of dentistry or orthodontics, the performance of said act or service by OrthAlliance shall be deemed waived and forever unenforceable and the provision of Section 7.12 shall be applicable.

7.6 Events Excusing Performance. Neither party shall be liable to the other party for failure to perform any of the services required herein in the event of strikes, lock-outs, calamities, acts of God, unavailability of supplies or other events over which that party has no control for so long as such events continue, and for a reasonable period of time thereafter.

7.7 Compliance with Applicable Laws. Both parties shall comply with all applicable federal, state and local laws, regulations and restrictions in the conduct of their obligations under this Agreement.

7.8 Severability. In the event that any provision of this Agreement or the application thereof to any of the parties hereto or any circumstance in any jurisdiction governing this Agreement shall, to any extent, be invalid or unenforceable under any applicable statute, regulation or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict herewith and shall be deemed modified to conform to such statute, regulation or rule of law, and the remainder of this Agreement and the application of any such invalid or unenforceable provision to parties, jurisdictions or circumstances other than to whom or to which it is held invalid or unenforceable shall not be affected thereby nor shall the same affect the validity or enforceability of any other provision of this Agreement.

7.9 Additional Documents. Each of the parties hereto agrees to execute any document or documents that may be requested from time to time by the other party to implement or complete such party's obligations pursuant to this Agreement.

7.10 Attorneys' Fees. If legal action is commenced by either party to enforce or defend its rights under this Agreement, the prevailing party in such action shall be entitled to recover its costs and reasonable attorneys' fees in addition to any other relief granted.

7.11 Confidentiality. Neither party hereto shall disseminate or release to any third party any information regarding any provision of this Agreement, or any financial information regarding the other (past, present or future) that was obtained by the other in the course of the negotiation of this Agreement or in the course of the performance of this Agreement, without the other party's written approval; provided, however, the

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foregoing shall not apply to information which is required to be disclosed by law, including federal or state securities laws, or pursuant to court order.

7.12 Contract Modifications for Prospective Legal Events. In the event any state or federal laws or regulations, now existing or enacted or promulgated after the effective date of this Agreement, are interpreted by judicial decision, a regulatory agency or legal counsel for both parties in such a manner as to indicate that the structure of this Agreement may be in violation of such laws or regulations, the Orthodontic Entity and OrthAlliance shall amend this Agreement as necessary. To the maximum extent possible, any such amendment shall preserve the underlying economic and financial arrangements between the Orthodontic Entity and OrthAlliance.

7.13 Remedies Cumulative. No remedy set forth in this Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to any party, but the same shall be distinct, separate and cumulative and may be exercised from time to time as often as occasion may arise or as may be deemed expedient.

7.14 Language Construction. The language in all parts of this Agreement shall be construed, in all cases, according to the parties' intent and the parties hereto acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

7.15 No Obligation to Third Parties. None of the obligations and duties of OrthAlliance or the Orthodontic Entity under this Agreement shall in any way or in any manner be deemed to create any obligation of OrthAlliance or of the Orthodontic Entity to, or any rights in, any person or entity not a party to this Agreement.

7.16 Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same Agreement.

7.17 Singular and Plural; Gender. Where the context so requires or permits, the use of the singular form includes the plural, and the use of the plural form includes the singular, and the use of any gender includes any and all genders.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

GREENBAUM ORTHODONTICS, P.C.

By: Kenneth R. Greenbaum
Name: Dr. Kenneth R. Greenbaum
Title: President

ORTHALLIANCE, INC.

By: Paul H. Halperin
Name: Paul H. Halperin
Title: Senior Vice President

Exhibit 1.2

Center Locations

Main Office:

2450 Lancaster Drive NE, Suite 200
Salem, OR 97305

Satellite Offices:

505 N. Second Avenue
Stayton, OR 97383

303 N. First St.
Silverton, OR 97381

EXHIBIT 3.1

ADDITIONAL FEE CALCULATION

If the Center's Adjusted Gross Revenue for Year 1 is \$1,000,000 and the Center's annual overhead for Year 1 is \$500,000 and the Center's Adjusted Gross Revenue for Year 2 is \$1,200,000 and the Center's annual overhead for Year 2 is \$552,000, then the additional fee required by Section 3.1 shall be calculated as follows:

Year 1 overhead percentage: $\$500,000/\$1,000,000 = 50\%$

Year 2 overhead percentage: $\$552,000/\$1,200,000 = 46\%$

Reduction in Center's office overhead percentage: $50\% - 46\% = 4\%$

$4\% * \$1,200,000 = \$48,000$

$\$48,000 * 25\% \text{ fee} = \$12,000 \text{ additional fee}$

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EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of November 11, 1997 1997 by and between Greenbaum Orthodontics, P.C., an Oregon corporation (the "Orthodontic Entity"), and Dr. Kenneth R. Greenbaum, a licensed orthodontist (the "Orthodontist").

RECITALS

WHEREAS, the Orthodontic Entity desires to employ the Orthodontist and to be assured of his services as such on the terms and conditions hereinafter set forth; and

WHEREAS, the Orthodontist is willing to accept such employment on such terms and conditions;

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00), the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the adequacy, receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Orthodontic Entity and the Orthodontist hereby agree as follows:

1. Employment.

(a) The Orthodontic Entity hereby employs the Orthodontist to provide orthodontic services to the general public at the facility or facilities operated by the Orthodontic Entity (the "Center(s)") as listed on Exhibit A attached hereto and incorporated herein by reference, in accordance with the methods, procedures and processes from time to time set forth by the Orthodontic Entity, to the extent permitted by applicable law.

(b) The Orthodontist shall faithfully and diligently discharge his duties hereunder and shall devote his full business time, attention, skill, and effort exclusively to the business and affairs of the Orthodontic Entity, subject to allowed vacations and to reasonable periods of illness. During the term of this Agreement, the Orthodontist shall not, directly or indirectly, as a partner, member, stockholder, consultant, agent, joint venturer, investor, lender, individual proprietor, officer, director, employee (except for stock or investments held by the Orthodontist as of July 31, 1996), or in any capacity whatsoever, alone or in association with others, own, manage, operate, control or participate in the ownership, management, operation or control of, or work for or permit the use of Orthodontist's name by, or be connected in any manner with, or contract to be provided services from any business, organization or person in competition with the Orthodontic Entity or any of its affiliated organizations, without the prior written consent of the Orthodontic Entity. Notwithstanding the foregoing, the Orthodontist shall be permitted to devote up to eight (8) business days per month to the Orthodontist's other non-dental and non-orthodontic business interests and activities; provided, however, that in conducting such activities, the Orthodontist shall not compete with OrthAlliance, Inc., a Delaware corporation, or its successor or assigns ("OrthAlliance") or act in any manner inconsistent with the best business interests of OrthAlliance.

2. Term of Employment. Unless sooner terminated as provided in Section 4 hereof, the Orthodontist's employment shall be for an initial term of five (5) years commencing on the Closing Date, as defined in that certain Agreement and Plan of Reorganization dated of even date herewith by and among OrthAlliance, the predecessor to Orthodontic Entity and the Orthodontist, and ending on the fifth (5th) anniversary thereof (the "Initial Term"). Upon expiration of the Initial Term, this Agreement shall renew automatically thereafter for additional one-year terms, unless and until terminated as provided in Section 4 hereof.

3. Compensation.

(a) As compensation for services hereunder, the Orthodontic Entity shall pay to the Orthodontist a percentage as determined by the Orthodontic Entity of the amount of Adjusted Gross Revenue (determined based on the cash method of accounting) of the Center remaining after payment in full each month of (i) the monthly Consulting Fee as defined in that certain Consulting and Business Services Agreement, by and between the Orthodontic Entity and OrthAlliance, dated as of even date herewith (the "Consulting Agreement"), and (ii) all expenses of the Center, including, without limitation, all Center Expenses (as defined in the Consulting Agreement) and all malpractice insurance premiums. As used herein, the term "Adjusted Gross Revenue" shall mean Gross Revenue of the Center less any adjustments for uncollectible accounts, professional courtesies and other activities that do not generate a collectible fee. The term "Gross Revenue" as used herein shall mean all fees and charges recorded or booked each month by or on behalf of the Orthodontic Entity as a result of professional orthodontic services personally furnished to patients by the Orthodontist and those under the Orthodontist's supervision and other fees or income generated in his capacity as a professional prior to any adjustments.

(b) Payments expended each fiscal year by the Orthodontic Entity on behalf of the Orthodontist and other orthodontists or dentists delivering patient care at the Center(s) for continuing education, seminars, professional license fees and dues, professional memberships, expenses related to a company automobile for the Orthodontist, and all other expenses of the Orthodontist and other orthodontists or dentists delivering patient care at the Center(s) that do not directly benefit the Orthodontic Entity (as reasonably determined by OrthAlliance), up to the amount of three percent (3%) of the Orthodontic Entity's Adjusted Gross Revenue, shall be considered a Center Expense. To the extent that such expenses exceed three percent (3%) of the Orthodontic Entity's Adjusted Gross Revenue for such year, the Center Expenses shall be reduced by such excess amount for the purpose of calculating the Consulting Fee (as defined in the Consulting Agreement). Notwithstanding the foregoing, Orthodontist is encouraged to incur expenses that will promote the Orthodontic Entity, which expenses shall be considered Center Expenses for purposes of calculating the Consulting Fee.

4. Termination.

(a) Notwithstanding the provisions of Section 2 hereof, either the Orthodontic Entity or the Orthodontist may terminate the Orthodontist's employment without cause at any time after the expiration of the Initial Term by giving one (1) year's prior written notice to the other party to such effect, such notice to be effective upon receipt by the non-terminating party. Orthodontic Entity may terminate Orthodontist's employment for "cause" (as defined in Section 4(b) below) and the Orthodontist may terminate his employment pursuant to Section 4(c) below. Notice of termination pursuant to Sections 4(b) or 4(c) shall be effective upon receipt and shall indicate the basis for termination. Upon termination of this Agreement for any reason, the Orthodontist shall purchase tail insurance coverage for a period of three (3) years at the Orthodontist's expense.

(b) For purposes of this Agreement, termination may be for "cause" in the event of the occurrence of any of the following:

(i) The death of the Orthodontist.

(ii) The physical or mental incapacity of the Orthodontist. The Orthodontist shall be deemed to be physically or mentally incapacitated for purposes of this paragraph if by reason of any physical or mental incapacity he has been unable or it is deemed that he will be unable for a period of at least ninety (90) days

to perform his duties and responsibilities hereunder in a reasonably satisfactory manner. In the event of any disagreement between the Orthodontist and the Orthodontic Entity about whether he is physically or mentally incapacitated such as to permit the Orthodontic Entity to terminate his employment pursuant to this paragraph, the question of such incapacity shall be submitted to an impartial and reputable physician selected by mutual agreement of the Orthodontist and the Orthodontic Entity or, failing such agreement, selected by two physicians (one of which shall be selected by the Orthodontic Entity and the other by the Orthodontist). The determination of the question of such incapacity by such physician shall be final and binding on the Orthodontist and the Orthodontic Entity for purposes of this Agreement. The Orthodontic Entity shall pay the reasonable fees and expenses of such physician.

(iii) Any of (A) the commission by the Orthodontist of willful misconduct which causes material harm to the Orthodontic Entity, (B) the conviction of the Orthodontist for the commission or perpetration by the Orthodontist of any felony or any act of fraud, or (C) habitual absenteeism, chronic alcoholism, or drug addiction; provided, however, that if any such habitual absenteeism, chronic alcoholism, or drug addiction may reasonably be cured, the Orthodontist shall have a reasonable time, not exceeding thirty (30) days, to cure such matter after receiving notice thereof from the Orthodontic Entity.

(c) For purposes of this Agreement, the Orthodontist may terminate this Agreement in the event the Orthodontic Entity has committed a material breach of this Agreement; provided, however, that if such matter may reasonably be cured, the Orthodontic Entity shall have a reasonable time, not exceeding ninety (90) days, to cure such matter after receiving notice thereof from the Orthodontist.

5. Partial Restraint on Post-Termination Competition.

(a) Orthodontic Entity expects to invest considerable time, effort, and capital in enhancing the value and desirability of the skills of the Orthodontist. Both this investment and the Orthodontist's individual compensation reflect Orthodontic Entity's expectation of receiving a considerable return from the exclusive use of the Orthodontist's services and know-how in the future, free from any danger that Orthodontic Entity's competitors may attempt to induce the Orthodontist to leave Orthodontic Entity and wrongfully gain the benefit of Orthodontic Entity's investment. The partial restraint set forth in subsection (b) of this Section 5 hereof does not, and cannot, provide complete protection for Orthodontic Entity's investment, development efforts, and proprietary information, but Orthodontic Entity believes that in combination with the other provisions of this Agreement, it is the most fair and reasonable measure permitted under applicable law to protect Orthodontic Entity's interests, giving due regard to both the Orthodontist's interests and the interests of Orthodontic Entity.

(b) Orthodontic Entity requires its orthodontists and dentists to accept and observe the following partial restraint on post-termination competition, which Orthodontist agrees to honor:

FOR A PERIOD OF TWO YEARS FOLLOWING THE TERMINATION OF YOUR EMPLOYMENT, YOU MAY NOT (i) ENGAGE IN ANY NEWSPAPER, PRINT, RADIO, TELEVISION OR ELECTRONIC ADVERTISING FOR YOUR ORTHODONTIC OR DENTAL SERVICES IN THE BROADCAST COVERAGE AREA OF TELEVISION STATIONS IN THE MARKET AREA WHERE THE CENTER COVERED BY THIS AGREEMENT IS LOCATED, WITHOUT ORTHODONTIC ENTITY'S PRIOR WRITTEN CONSENT, (ii) ACTIVELY SOLICIT OR DIRECTLY MARKET YOUR ORTHODONTIC OR DENTAL SERVICES (OR THOSE OF ANY OTHER ORTHODONTIC ENTITY WITH

WHICH YOU ARE AFFILIATED OR EMPLOYED) TO ANYONE WHO WAS YOUR PATIENT (OR A PATIENT OF THE ORTHODONTIC ENTITY) DURING THE TERM OF THIS AGREEMENT, (iii) PROVIDE ORTHODONTIC OR DENTAL SERVICES TO ANY PATIENTS WITHIN A TEN (10) MILE RADIUS OF ANY CENTER(S)'S, (iv) ACTIVELY SOLICIT THE CENTER'S STAFF OR PATIENTS, OR (v) SOLICIT REFERRALS FROM ANY DENTIST WHO REFERRED ONE OR MORE PATIENTS TO ORTHODONTIST OR THE ORTHODONTIC ENTITY WITHIN THE TWO YEARS PRIOR TO SUCH TERMINATION.

The running of the two year period prescribed above shall be tolled and suspended by the length of time Orthodontist works in circumstances that a court of competent jurisdiction subsequently finds to violate the terms of this partial restraint.

6. Confidential Information. The Orthodontist shall agree to maintain in strict confidence, and not use or disclose except under the instruction of the Orthodontic Entity, any confidential business information comprising confidential information and/or a trade secret of the Orthodontic Entity. Trade secrets are property rights protected by law and, for purposes of this letter, shall have the meaning provided under applicable law. Some of the information that the Orthodontic Entity treats as trade secrets includes financial information (revenues, margins, assets, net income, etc.), annual and long-range business plans, marketing plans and methods, account invoices, training, educational, and administrative manuals, patient information, employee lists, suppliers, wholesalers, and future business plans of the Orthodontic Entity. Confidential information shall also include all information regarding OrthAlliance or any Affiliate, OrthAlliance's or any Affiliate's activities, OrthAlliance's or any Affiliate's business or OrthAlliance's or any Affiliate's customers or patients that is not generally known to persons not employed by OrthAlliance or an Affiliate, but that does not rise to the level of a Trade Secret and that is not generally disclosed by practice or authority of OrthAlliance or an Affiliate to persons not employed by OrthAlliance or an Affiliate. Throughout the term of this Agreement and at all times after the date that this Agreement terminates for any reason, Orthodontist shall not directly or indirectly transmit or disclose any confidential information or trade secret to any person, concern or entity, and shall not make use of any such trade secret, directly or indirectly, for himself or for others, except (i) to the extent such disclosure is consistent with Orthodontist's duties hereunder or (ii) for a disclosure that is required by an law or regulation or court order, in which latter case Orthodontist shall provide OrthAlliance prior written notice of such disclosure and an opportunity to contest such disclosure. Upon termination of the Term of this Agreement, Orthodontist will return all trade secrets and all confidential information of the Orthodontic Entity or OrthAlliance, including without limitation, any documents, notes, analyses, compilations or other materials incorporating or based on any trade secrets or confidential information of the Orthodontic Entity or OrthAlliance. As used in this Agreement, the term "Affiliate" shall mean (i) each corporation or other business entity directly or indirectly controlling, controlled by, or under common control with the Orthodontic Entity or OrthAlliance, and (ii) each orthodontic or dental practice to which OrthAlliance provides management or consulting services, the employees and principals of such practices, and each corporation or other business entity directly or indirectly controlling, controlled by, or under common control with each such practice or the principals thereof.

7. Waiver. Any waiver of any term or condition or any amendment of this Agreement shall be effective only if in writing and signed by the parties. The waiver by either party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

8. Publicity. Following termination of the Orthodontist's employment, neither party will disparage or injure the reputation of the other party. This obligation will include, in the Orthodontist's case, refraining

from negative statements about the Orthodontic Entity's methods of doing business, the effectiveness of its business policies, and the quality of any of its services or personnel. In addition, neither party will make any statements regarding the other or regarding the Orthodontist's former employment with the Orthodontic Entity to any member of the print or broadcast media except after mutual consultation.

9. Patient Care. Nothing in this Agreement is intended to interfere, or shall be construed as interfering, in any way with the Orthodontist's ability to independently exercise professional and ethical judgment in the performance of his patient care responsibilities.

10. Miscellaneous.

(a) This Agreement contains the entire agreement between the Orthodontic Entity and the Orthodontist with respect to the subject matter hereof and thereof and supersedes all prior arrangements or understandings with respect hereto or thereto.

(b) The descriptive headings of this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision.

(c) Notwithstanding any other term or provision of this Agreement, all amounts payable to the Orthodontist by the Orthodontic Entity hereunder shall be subject to the withholding of such sums relating to taxes as the Orthodontic Entity may reasonably determine it is required to withhold pursuant to any applicable law or regulation.

(d) All notices pursuant to this Agreement shall be in writing and sufficient if delivered personally or sent by overnight courier or registered or certified mail, postage prepaid, addressed as follows:

If to the Orthodontic Entity to:
Greenbaum Orthodontics, P.C.
2450 Lancaster Drive, NE, Suite 200
Salem, Oregon 97305
Attention: Dr. Kenneth R. Greenbaum

If to the Orthodontist to:
Dr. Kenneth R. Greenbaum
2450 Lancaster Drive, NE, Suite 200
Salem, Oregon 97305

Either party may by written notice change the address to which notices to such party are to be delivered or mailed.

(e) The parties acknowledge and agree that any legal remedies for breach of this Agreement would be inadequate and irreparable harm shall be presumed. The faithful observance of all covenants in this Agreement is an essential condition to Orthodontist's employment, and Orthodontic Entity is depending upon absolute compliance herewith. Damages would be very difficult, if not impossible, to ascertain if the Orthodontist breaches this Agreement. Orthodontist acknowledges and agrees that any court of competent jurisdiction should immediately enjoin any breach of this Agreement upon the request of Orthodontic Entity, and Orthodontist specifically releases Orthodontic Entity from the requirement of posting any bond in connection with temporary or interlocutory injunctive relief, to the extent permitted by law.

(f) This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon (without respect to its rules of conflicts of law).

(g) This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same Agreement.

(h) In the event that any provision of this Agreement or the application thereof to the Orthodontist or any circumstance in any jurisdiction governing this Agreement shall, to any extent, be invalid or unenforceable under any applicable statute, regulation or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform to such statute, regulation or rule of law, and the remainder of this Agreement and the application of any such invalid or unenforceable provision to parties, jurisdictions or circumstances other than to whom or to which it is held invalid or unenforceable shall not be affected thereby nor shall the same affect the validity or enforceability of any other provision of this Agreement.

(i) No remedy set forth in this Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to any party, but the same shall be distinct, separate and cumulative and may be exercised from time to time as often as occasion may arise or as may be deemed expedient.

IN WITNESS WHEREOF, the Orthodontic Entity and the Orthodontist have executed this Agreement as of the day and year first above written.

GREENBAUM ORTHODONTICS, P.C.

By: Kenneth R. Greenbaum DDS MS

Name: Dr. Kenneth R. Greenbaum

Title: President

ORTHODONTIST:

Kenneth R. Greenbaum DDS MS
Dr. Kenneth R. Greenbaum

Exhibit A

Location of Centers:

Main Office:

2450 Lancaster Drive, NE, Suite 200
Salem, Oregon 97305

Satellite Offices:

505 N. Second Avenue
Stayton, Oregon 97383

303 N. First St.
Silverton, OR 97381

Orthodontic Centers of America Announces Validation of OrthAlliance Service Agreement By U.S. District Court in Indiana

METAIRIE, La., May 3, 2002 /PRNewswire-FirstCall via COMTEX/ -- Orthodontic Centers of America, Inc. (NYSE: OCA) today announced that the U.S. District Court for the Northern District of Indiana has held that a Service Agreement between OrthAlliance, Inc. and one of OrthAlliance's affiliated practices was valid and enforceable, in that the Service Agreement did not violate Indiana laws prohibiting the unauthorized practice of dentistry. In a decision rendered on April 22, 2002, the court also ruled that OrthAlliance was a third party beneficiary of portions of the Employment Agreements between the practice and its orthodontist-owners, including the orthodontists' covenant not to compete.

OrthAlliance, Inc. is a wholly-owned subsidiary of OCA. As previously reported, a number of OrthAlliance's affiliated practices and orthodontists have filed lawsuits against OrthAlliance, in which they seek to invalidate their Service Agreements and Employment Agreements based on alleged illegality under state laws governing the practice of dentistry.

Bart Palmisano, Sr., Chief Executive Officer of OCA, remarked, "We believe that the court's rulings in *Orthodontic Affiliates* send a clear message that our contracts are valid and enforceable. We view the federal court's ruling as a positive development and a testimony to the strength of our legal positions in these cases."

In the case, entitled *Orthodontic Affiliates, P.C. v. OrthAlliance, Inc., f/k/a U.S. Orthodontic Care, Inc.*, the professional corporation alleged that its Service Agreement called for OrthAlliance to engage in the practice of dentistry unlawfully, thereby rendering the Service Agreement invalid and unenforceable. In rejecting the professional corporation's position, the court characterized the relationship between the parties as "truly symbiotic," with the orthodontists benefiting from OrthAlliance's "expertise (and resulting efficiency) in business management, which allows the practitioner more time to ply his/her trade and to see more patients."

The court found that the Service Agreement did not call for OrthAlliance to engage in the unauthorized practice of dentistry; rather, the court found that OrthAlliance had a contractual obligation under the Service Agreement to provide business services and business personnel to the practice, without violating Indiana laws regulating the practice of dentistry. The court confirmed that OrthAlliance does not control the orthodontic practice, noting that one of the orthodontist-owners of the practice, Dr. Randall A. Schmidt, had made statements that indicated his understanding that he and the other orthodontist-owner, Dr. Thomas W. Surber, "retained exclusive control" over their practice.

The court also held that OrthAlliance was a third party beneficiary of provisions in the Employment Agreements between the practice and its orthodontist-owners that were intended to benefit OrthAlliance. Specifically, the court noted that the noncompetition provisions in the Employment Agreements were clearly intended to benefit OrthAlliance, and that the practice and its orthodontist-owners may not amend those provisions without OrthAlliance's consent if OrthAlliance has approved, sued upon or justifiably relied on the provisions. OrthAlliance has filed an amended counterclaim with the court, which OrthAlliance believes clearly indicates that it has met these requirements. A trial date for the remaining issues in this case has not been set.

In closing, Bart Palmisano, Sr. stated, "We are encouraged by the court's rulings and will continue to pursue and vigorously defend each of the similarly baseless actions that selected professionals have elected to bring against OrthAlliance. The court's rulings affirm our view that we have meritorious defenses and counterclaims in these cases."

Orthodontic Centers of America, Inc., founded in 1985, is the leading provider of integrated business services to orthodontic practices. For additional information on Orthodontic Centers of America, Inc. visit the Company's web site: <http://www.4braces.com>.

The forward-looking statements in this release, including statements regarding the OrthAlliance litigation, are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. As such, they involve risks and uncertainties, including changes in the Company's litigation strategy, adverse rulings in other cases and differences in laws governing the practice of dentistry among the various states in which we operate, that could cause actual results to differ materially from those projected in these forward-looking statements. A discussion of important factors and assumptions regarding these statements and risks involved is contained in the Company's 2001 Annual Report on Form 10-K and other recent filings with the Securities and Exchange Commission.

SOURCE: Orthodontic Centers of America, Inc.

CONTACT: Cory B. Armand, Vice President of Investor Relations of Orthodontic Centers of America, Inc., +1-866-765-8583

EXHIBIT 2
Page 1 of 1

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

POCATELLO DENTAL GROUP, P.C.,)
an Idaho professional)
corporation,)

Plaintiff,)

vs.)

Case No. CV-03-450-E-LMB

INTERDENT SERVICE CORPORATION,)
a Washington corporation,)

Defendant.)

INTERDENT SERVICE CORPORATION,)
a Washington corporation,)

Third Party Plaintiff.)

vs.)

POCATELLO DENTAL GROUP, P.C.,)
an Idaho professional)
corporation; DWIGHT G.)
ROMRIELL, individually;)
LARRY R. MISNER, JR.,)
individually; PORTER SUTTON,)
individually; ERNEST SUTTON,)
individually; GREGORY ROMRIELL)
individually; ERROL ORMOND,)
individually; and ARNOLD)
GOODLIFFE, individually,)

Third Party Defendants.)

COPY

ORAL DEPOSITION OF LEROY RUSSELL MISNER, JR.
Taken on July 1, 2004

EXHIBIT 3
Page 1 of 4

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BOBBI EIVES
By Jew 7/26/04

1 partnership. He was the president of that the whole
 2 time, or the managing partner or whatever.
 3 Q. It is true that when Dr. Michaelson left, he
 4 went to practice in Burley, right?
 5 A. That's correct.
 6 Q. Now, you mentioned Orthodontic Centers of
 7 America, which is kind of a long name. If I said OCA,
 8 would that confuse you?
 9 A. I think you mentioned it, I don't think I did.
 10 Q. If I used the name OCA for them, would that
 11 cause you any confusion?
 12 A. No.
 13 Q. You testified, I believe, and you can correct
 14 me if I am wrong, that OCA managed your practice in
 15 Burley; is that right?
 16 A. They managed the practice, yes.
 17 Q. And they also managed your practice in
 18 Pocatello, correct?
 19 A. Managed Valley Dental, yes.
 20 Q. And what kind of things did they do for Valley
 21 Dental in Pocatello?
 22 A. They train and provide the employees, they
 23 provide the accounting, they provided funding, software
 24 program, site visits, regular training at their center
 25 for people in Valley -- employees of Valley Dental --

1 A. I don't think that there is -- well, no, they
 2 are not working. I don't think so.
 3 Q. And these 13 of 14 were trained well enough
 4 for you to hire them at your new practice, right?
 5 MR. HEARN: Objection. He is not hiring;
 6 there is no evidence that he is hiring anyone at the
 7 practice.
 8 Q. You can answer.
 9 A. Repeat the question.
 10 Q. Sure. Thirteen of the 14 employees at Valley
 11 Dental in Pocatello were sufficiently trained by
 12 InterDent to be hired at the new practice, correct?
 13 A. No.
 14 Q. What's wrong with that statement, why is that
 15 not correct?
 16 A. You have asked sufficiently trained.
 17 Q. You felt some of the people you hired weren't
 18 trained sufficiently?
 19 A. Not at this point in time.
 20 Q. Were any of the people you hired trained
 21 sufficiently?
 22 A. Yes.
 23 Q. Which ones?
 24 A. I didn't hire them.
 25 Q. Were any of the people at Valley Dental --

1 employees of theirs that worked at Valley Dental to fly
 2 back and take training at their centers, and other
 3 services that I am not totally aware of. Dr. Bybee has a
 4 better handle on that than I do.
 5 Q. Is there a written management agreement with
 6 OCA?
 7 A. I believe there is.
 8 Q. Have you seen that agreement?
 9 A. I have seen that agreement, yes.
 10 Q. Did you sign it?
 11 A. I think I did, yes. Wait a second, I'm not
 12 sure, I would have to see the agreement. I think just
 13 Dr. Bybee signed it. I don't really recall that, so I
 14 would have to see the document to know that for sure.
 15 Q. Let me ask you about some of the things you
 16 mentioned that OCA did. Train and provide employees. Is
 17 it true that 13 of the 14 employees at Valley Dental are
 18 former InterDent employees?
 19 A. There is more than 14, there are five others
 20 or six others in Burley.
 21 Q. The ones in Pocatello, 13 of the 14 are former
 22 InterDent employees.
 23 A. That's correct.
 24 Q. And of the ones in Burley, are any of those
 25 former InterDent employees?

1 A. OCA hired.
 2 Q. Thank you. Which former InterDent employees
 3 that OCA hired were trained sufficiently?
 4 A. Jorli Hillman, Penny Lish, Nelda Morrison,
 5 Megan Misner. Let's see who else. And probably Abbey --
 6 well, maybe not, she couldn't do everything yet. Aubrey,
 7 I don't remember her last name.
 8 Q. Megan Misner is a relative of yours?
 9 A. Yes.
 10 Q. How is she related to you?
 11 A. She is my daughter. I don't think any of the
 12 others were up to complete training.
 13 Q. Who are the others that are former InterDent
 14 employees that OCA hired to work at the Valley Dental
 15 office?
 16 A. Abbey Hodge, Tamara, and I don't know her last
 17 name, Melanie, and I don't know her last name, Cheri
 18 Howell, Tammy something, and Kim something.
 19 Q. What did Abbey Hodge do when she worked for
 20 InterDent?
 21 A. She was in the dental assistant, she was not
 22 yet fully trained in everything.
 23 Q. What did Tamara do?
 24 A. Dental assistant.
 25 Q. How about Melanie?

EXHIBIT 3
Page 3 of 4

Page 30

1 Q. How about less than 500,000?

2 A. I'm not sure on that.

3 Q. The lease, is the arrangement that OCA

4 actually leases the facility and Dr. Bybee subleases

5 or --

6 A. I think Valley Dental does, but I'm not --

7 MR. HEARN: I want to object on lack of

8 foundation. Perhaps you could clarify if he knows -- he

9 is frequently saying I am not sure, I don't know -- his

10 foundation for his testimony. So that's my objection.

11 Q. If you don't know the answer to something, Dr.

12 Misner, just please tell me.

13 A. If I don't know or I am not sure?

14 Q. I am entitled to your best estimate, but if

15 you don't know or if you just have to guess, would you

16 let me know?

17 A. Yes.

18 Q. Thanks. You mentioned site visits. What kind

19 of site visits does OCA do?

20 A. They have people to come in and train and they

21 have what they call a practice enhancement coordinator.

22 That's the person that comes in and trains and then will

23 come back on a periodic regular basis, plus the training

24 that they applied by flying a certain number of employees

25 down at their expense for training and other things.

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1 They have an annual meeting every year, something like

2 that. It has various -- and I don't know what they all

3 are.

4 Q. Do you know the name of the practice

5 enhancement coordinator for OCA?

6 A. Audrianna Riley.

7 Q. Is she based in New Orleans?

8 A. I'm not sure.

9 Q. Or anywhere in Louisiana?

10 A. I'm not sure.

11 Q. Does OCA have a person who functions as the

12 regional manager for this area?

13 A. I'm not aware of that.

14 Q. You haven't met such a person?

15 A. Not that I'm aware of.

16 Q. Who are the people at OCA that you have dealt

17 with?

18 MR. HEARN: Objection, ambiguous as to whether

19 you mean he personally dealt with or Valley Dental dealt

20 with or Dr. Bybee has dealt with. So if you would just

21 clarify, are you asking who he has dealt with or --

22 Q. Let's start with you personally.

23 A. By dealt with what do you mean?

24 Q. Met, talked to on the phone.

25 A. Dr. Lester.

Page 32

1 Q. What does Dr. Lester do at OCA?

2 A. I really don't know.

3 Q. Were you told what position Dr. Lester had?

4 A. I'm not aware of what it is, I don't recall

5 the name of the position.

6 Q. Did you get the impression that Dr. Lester was

7 in management there?

8 A. He is in some type of management, yes.

9 Q. When did you meet with Dr. Lester?

10 A. I think we met with him -- we met with him at

11 a meeting in San Francisco the end of May of 2003, when

12 we were just exploring options.

13 Q. Who else at OCA have you talked to or met

14 with?

15 A. Talked or met. Carl Rosa and Mike Cusmano.

16 Q. Do you have any idea how Mike Cusmano's last

17 name is spelled?

18 A. Your guess is as good as mine.

19 Q. Did you form any understanding about what Carl

20 Rosa did at OCA?

21 A. No, Dr. Bybee did most of the dealings with

22 OCA.

23 Q. Carl Rosa is a management person of some sort?

24 A. Dr. Bybee would be better informed.

25 Q. You don't have any idea?

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1 A. He is not practicing denistry.

2 Q. Dr. Lester is a dentist?

3 A. Yes, he is.

4 Q. Do you know if he is a dentist authorized to

5 practice in Idaho?

6 A. No, I'm not sure; I don't think so.

7 Q. He is based in Louisiana?

8 A. Yes.

9 Q. Mike Cusmano, is he a dentist?

10 A. I don't know.

11 Q. Do you believe him to be a management of some

12 sort at OCA?

13 A. He is in some type of management there, yes; I

14 am not sure what it is. Probably Dr. Bybee would be a

15 better person to ask these questions of.

16 Q. Sure. When did you meet with Carl Rosa?

17 A. I don't know as I ever met him, I may have met

18 some of the people at their booths and he may have been

19 there, I don't know.

20 Q. Did you talk to him on the phone?

21 A. Yes.

22 Q. When did you do that?

23 A. It was April or May of this year.

24 Q. And have you met Mike Cusmano in person?

25 A. I don't believe so.

EXHIBIT 3
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CORPORATE RECORDS & BUSINESS REGISTRATIONS

This Record Last Updated: 11/30/2003
 Database Last Updated: 07-30-2004
 Update Frequency: MONTHLY
 Current Date: 08/02/2004
 Source: AS REPORTED BY THE SECRETARY OF STATE OR OTHER OFFICIAL SOURCE

COMPANY INFORMATION

Name: ORTHODONTIC CENTERS OF IDAHO, INC.
 Address: 3850 N CAUSEWAY BOULEVARD;SUITE 800
 METAIRIE, LA 70002

FILING INFORMATION

Filing Date: 09/17/1999
 State of Incorporation: DELAWARE
 Status: GOOD STANDING
 Status Attained Date: 09/17/1999
 Corporation Type: PROFIT
 Business Type: CORPORATION
 Address Type: MAILING
 Registration ID#: C0130484
 Where Filed: SECRETARY OF STATE/CORPORATIONS DIVISION
 700 W JEFFERSON
 BOISE, ID 83720

REGISTERED AGENT INFORMATION

Agent Name: NATIONAL REGISTERED AGENTS INC
 Address: 1423 TYRELL LN
 BOISE, ID 83706
 Agent Appointed: 10/18/2000

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 ADDITIONAL CHARGES APPLY.

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END OF DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **Affidavit of Scott J. Kaplan in Opposition to Orthodontic Centers of Idaho, Inc.'s Motion to Quash** on the following named persons on the date indicated below by

- mailing with postage prepaid
- hand delivery
- facsimile transmission
- overnight delivery

to said persons a true copy thereof, contained in a sealed envelope, addressed to said persons at his or her last-known addresses indicated below.

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DATED: August 3, 2004.



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