

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT is between "You" (the "**Receiving Party**") and DMC LLP (the "**Disclosing Party**").

BACKGROUND:

In connection with the Receiving Party's use of www.DentalPlace.ca for contemplating a potential purchase of a dental practice or for purchasing a dental practice (and for no other reasons) (the "**Purpose**"), the Receiving Party will be provided with certain confidential information (defined below) about dental practices advertised on www.DentalPlace.ca (each a "**Dental Practice**").

THE PARTIES THEREFORE AGREE AS FOLLOWS:

1. **Definitions and Interpretation.**

- (a) "**Agreement**" means this Confidentiality Agreement as it may, from time to time, be updated, supplemented or amended.
- (b) "**Confidential Information**" means any non-public information, tangible or intangible, that is of value to a Dental Practice and which is communicated to the Receiving Party in respect of the Purpose. Without limiting the generality of the foregoing, Confidential Information includes:
 - (i) tangible information, marked with the word 'Confidential' or otherwise identified with markings or designations as being of a confidential nature;
 - (ii) all other information that would be understood by the Parties, exercising reasonable business judgment, to be confidential;
 - (iii) all materials that contain, disclose, or embody, in whole or in part, any Confidential Information; and
 - (iv) all appraisals, valuations, financial information, marketing information, equipment lists, Patient Records (defined below),

appointment schedules, employee information, and leases (for both real and personal property) of a dental practice.

- (c) **"Parties"** means the Receiving Party and the Disclosing Party and **"Party"** means any one of them.
 - (d) **"Patient"** is someone who a Dental Practice has provided dental services and/or products to and who has a Patient Record maintained by the Dental Practice.
 - (e) **"Patient Records"** means all charts, records, x-rays, patient lists, documentation and other data of all Patients of a Dental Practice, whether in physical or electronic format, including all billing records for each patient.
 - (f) **"Person"** means any individual, sole proprietor, corporation, partnership, trust, unincorporated association, syndicate, co-operative, affiliate, related entity or government body.
 - (g) **"You"** means the individual accessing the Confidential Information, or other legal entity on behalf of which such individual is accessing or using the Confidential Information, as applicable.
 - (h) the headings, articles and sections hereof are for convenience of reference only and do not form a part of this Agreement;
 - (i) any reference to an entity is to include (and is to be deemed to be) a reference to any entity that is a successor to such entity; and
 - (j) words importing gender are to include the masculine, feminine or neuter gender and words in the singular include the plural and *vice versa*.
2. **Ownership.** Except as provided otherwise in this Agreement, the Disclosing Party shall retain all title, rights, and interest in the Confidential Information.
3. **Non-Disclosure.** The Receiving Party shall:
- (a) take all reasonable measures to prevent the unauthorized disclosure, dissemination, and use of any Confidential Information;

- (b) use the Confidential Information only for the Purpose;
- (c) restrict disclosure of any Confidential Information to the Receiving Party's professional advisors who:
 - (i) need to know such information for the Purpose,
 - (ii) are informed of the confidential nature of such information, and
 - (iii) have agreed to act in accordance with this Agreement (the "**Authorized Representatives**");
- (d) be liable for the acts and omissions of its Authorized Representatives;
- (e) not, directly or indirectly, use any Confidential Information to the Disclosing Party's detriment;
- (f) not act, or fail to act reasonably, so that any Confidential Information loses its character as Confidential Information; and
- (g) not reproduce, in whole or in part, any Confidential Information except in accordance with this Agreement.

4. **Return and Destruction of Confidential Information.** Upon the Disclosing Party's written request, the Receiving Party shall immediately return to the Disclosing Party, or immediately and irreversibly destroy, any Confidential Information within its power, possession or control and provide proof thereof to the Disclosing Party's satisfaction.

5. **Restrictions.** The Receiving Party shall not:

- (a) attend in person (or instruct Person to attend in person) at a Dental Practice without the prior written consent of the Disclosing Party and the owner/operator of that particular dental practice; or
- (b) communicate (or instruct any Person to communicate) with any employee, contractor, associate or Patient of a Dental Practice without the prior written consent of the Disclosing Party and the owner/operator of that particular dental practice.

6. **Limitations.** This Agreement does not:
 - (a) create any agency, employment, franchise, partnership or joint venture relationship between the Parties;
 - (b) require the Disclosing Party to disclose Confidential Information to the Receiving Party;
 - (c) make the Disclosing Party or the owner/operator of a Dental Practice liable to the Receiving Party for providing any inaccurate or incomplete Confidential Information;
 - (d) require either Party to enter into any further agreements or to proceed with any other transaction;
 - (e) limit the power of the Disclosing Party to deal with any Confidential Information in any manner whatsoever; or
 - (f) require the Disclosing Party to grant any rights to the Receiving Party, except as are necessary to carry out this Agreement.
7. **Injunctive Relief.** If there is an actual or threatened breach of this Agreement by the Receiving Party or any Authorized Representative, the Disclosing Party shall, in addition to other available legal or equitable remedies, be entitled to seek an injunction in respect of any such breach, without the need to prove damages.
8. **Electronic Signature.** By selecting the 'I Accept' button, You are signing this Agreement electronically. You agree your Electronic Signature is the legal equivalent of your manual signature on this Agreement. You further agree that your use of a keypad, mouse or other device to select or click the 'I Accept' button or similar act/action constitutes your signature (hereafter referred to as "**E-Signature**"), acceptance and agreement as if actually manually signed by you in writing. You also agree that no certification authority or other third party verification is necessary to validate your E-Signature and that the lack of such certification or third party verification will not in any way affect the enforceability of your E-Signature or any resulting contract between you and the Disclosing Party. You also represent that You are authorized to enter into this Agreement for all Persons who own or are authorized to access any of your computers or email

accounts and that such Persons will be bound by the terms of this Agreement.

9. **General Terms.**

- (a) **Acknowledgments.** The Receiving Party acknowledges that:
- (i) it is not a party to, and agrees not to enter into, any agreement which may conflict with this Agreement;
 - (ii) it fully understands the nature and consequences of this Agreement and their respective rights and obligations in this Agreement;
 - (iii) it considers the terms and conditions of this Agreement to be fair and reasonable;
 - (iv) it has been given an opportunity to read this Agreement in its entirety and to obtain independent legal advice prior to signing this Agreement;
 - (v) it is signing this Agreement voluntarily;
 - (vi) by typing in their name below, they agree to be bound by the terms and conditions of this Agreement and the Terms of Use of www.DentalPlace.ca (as amended from time to time); and
 - (vii) Patients have an expectation of privacy and so the Receiving Party shall not use information obtained by inspecting Patient Records to the detriment of any Dental Practice which includes, but is not limited to, soliciting the business of any Patient nor shall the Receiving Party copy or cause to be copied any Patient Records.
- (b) **Assignment.** This Agreement may not be assigned without the Disclosing Party's prior written consent. Any attempt to assign this Agreement without such consent is void. Subject to the foregoing, this Agreement shall bind and enure to the benefit of any permitted successors and assigns.
- (c) **Entire Agreement.** This Agreement is the entire and exclusive understanding of the Parties respecting the subject matter of this Agreement. There are no other agreements or understandings, whether oral

or written, respecting the subject matter of this Agreement.

- (d) **Further Assurances.** The Parties shall do what is reasonably necessary to give effect to this Agreement.
- (e) **Governing Law.** This Agreement shall be governed by, construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties irrevocably submit to the exclusive jurisdiction of the courts of Ontario. No Party will oppose the enforcement against it of any judgment or order obtained from an Ontario court respecting this Agreement.
- (f) **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable in whole or in part for any reason whatsoever, the remainder of the Agreement shall remain valid and enforceable.
- (g) **Waiver.** A waiver of any term or condition of this Agreement is not binding unless it is in writing and signed by the Party entitled to grant it. No waiver shall be a waiver of any other right. No failure to exercise, and no delay in exercising, any right or remedy, under this Agreement shall be a waiver of that right or remedy.

THIS CONFIDENTIALITY AGREEMENT is being signed on the date the E-Signature of the Receiving Party is submitted.

*** It is recommended that you save or print a copy of this Agreement for future reference.