**ANCILLARY SERVICES AGREEMENT**

 This Ancillary Services Agreement (“**Agreement**”) is between [INSERT PRACTICE LEGAL NAME] (“**We**,” “**Us**,” or “**Practice**”) and the individual patient (or the parent/guardian of a patient) who has signed up either online or in paper copy for Ancillary Services to be rendered by the Practice. “Ancillary Services” consist of the services we render in connection with any of the following programs:

1. Bill Payment Service

2. Payment Plan

3. Membership Plan

 The Ancillary Services are independent of the other professional services the Practice renders to its patients and customers, such as dental, orthodontic, or other services we may render. Professional services are rendered under a separate agreement between you and the Practice.

 This Agreement relates only to those Ancillary Services for which you have signed up. If you do not sign up for a particular Ancillary Service, the provisions of this Agreement that relate to the service for which you have not signed up will not be applicable to you. However, all the provisions contained in this Agreement under the heading “General Terms” relate to all of the Ancillary Services.

 Our Privacy Policy [HYPERLINK] governs how we use information you share with us, both as we provide professional services to you and in connection with our provision of the Ancillary Services.

**1. BILL PAYMENT SERVICE PROVISIONS**

1.1 Definitions. For purposes of this Article 1, the following terms shall be defined as shown:

"Service" means the Bill Payment Service offered by the Practice.

"Payment Instruction" is the information provided by you to the Service for a bill payment to be made to the Practice (such as, but not limited to, a Scheduled Payment Date).

"Payment Account" is the checking account from which bill payments will be debited.

"Business Day" is every Monday through Friday, excluding Federal Reserve holidays.

"Scheduled Payment Date" is the day you want the Practice to receive your bill payment and is also the day your Payment Account will be debited, unless the Scheduled Payment Date falls on a non-Business Day in which case it will be considered to be the previous Business Day.

"Due Date" is the date reflected on your Practice statement for which the payment is due. It is not the late date or grace period.

"Scheduled Payment" is a payment that has been scheduled through the Service but has not begun processing.

1.2 Payment Authorization and Payment Remittance.

When the Practice receives a Payment Instruction, you authorize the Practice to debit your Payment Account in the amount you have designated. Your payment may be delayed or denied (1) if your Payment Account does not contain sufficient funds to complete the transaction or the transaction would exceed the credit limit of your overdraft account; (2) the payment processing center is not working properly; (3) you have not provided the Practice with the correct Payment Account information, or the correct name, address, phone number, or account information; and/or (4) circumstances beyond control of the Practice (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the transaction and the Practice has taken reasonable precautions to avoid those circumstances.

1.3 Password and Security.

You agree not to give or make available your password or other means to access your account to any unauthorized individuals. You are responsible for all payments you authorize using the Service. If you permit other persons to use the Service or your password or other means to access your account, you are responsible for any transactions they authorize. If you believe that your password or other means to access your account has been lost or stolen or that someone may attempt to use the Service without your consent or has transferred money without your permission, you must notify the Service at once.

1.4 Your Liability for Unauthorized Transfers.

If you tell us within two (2) Business Days after you discover your password or other means to access your account has been lost or stolen, we will attempt to cancel any future scheduled payments. However, your responsibility to the Practice for any amounts owed to the Practice shall not be affected by such cancellation.

1.5 Errors and Questions.

In case of errors or questions about your transactions, you should as soon as possible notify us.

1.6 Disclosure of Account Information to Third Parties.

It is our policy to treat your account information as confidential. We will only disclose information to third parties about your account or the transactions you make ONLY in the following situations:

* Where it is necessary for completing transactions;
* Where it is necessary for activating additional services;
* In order to verify the existence and condition of your account to a third party, such as a credit bureau;
* To a consumer reporting agency for research purposes only;
* In order to comply with a governmental agency or court orders; or,
* If you give us your written permission.

1.7 Service Fees and Additional Charges.

Any applicable fees will be charged regardless of whether the Service was used during the billing cycle. There may be a charge for additional transactions and other optional services. You agree to pay such charges and authorize the Service to deduct the calculated amount from your designated Billing Account for these amounts and any additional charges that may be incurred by you. You are responsible for any and all telephone access fees and/or Internet service fees that may be assessed by your telephone and/or Internet service provider.

1.8 Failed or Returned Transactions.

In using the Service, you are requesting the Service to make payments for you from your Payment Account. If we are unable to complete the transaction for any reason associated with your Payment Account (for example, there are insufficient funds in your Payment Account to cover the transaction), the transaction will not be completed. In some instances, you will receive a return notice from the Service. In such case, you agree that:

* You will reimburse the Service immediately upon demand the transaction amount that has been returned to the Service;
* For any amount not reimbursed to the Service within fifteen (15) days of the initial notification, a late charge equal to 1.5% monthly interest or the legal maximum, whichever rate is lower, for any unpaid amounts may be imposed;
* You will reimburse the Service for any fees imposed by your financial institution as a result of the return;
* You will reimburse the Service for any fees it incurs in attempting to collect the amount of the return from you; and,
* The Service is authorized to report the facts concerning the return to any credit reporting agency.

1.9 Address or Banking Changes.

It is your sole responsibility to ensure that the contact information in your user profile is current and accurate. This includes, but is not limited to, name, address, phone numbers and email addresses. The Practice is not responsible for any payment processing errors or fees incurred if you do not provide accurate Payment Account or contact information.

**2. PAYMENT PLAN PROVISIONS**

2.1 Plan Set-Up.

We may decide in our sole and absolute discretion whether to accept payments from you under a payment plan. If we agree to a payment plan for you and you agree that your payments will be made by automated means, either by periodically withdrawing money from your bank account or charging a credit card, the Bill Payment Service Provisions above shall apply to you.

2.2 Your Responsibilities.

With respect to any payment plan we set up for you, it is your sole responsibility to do the following:

* Ensure there are sufficient funds available in your checking or savings account or on your credit card to meet each withdrawal on the due date. If there are insufficient funds in your account, your financial institution may charge you a fee and/or interest. You are solely responsible for paying any fee and/or interest charged by your financial institution. We may also charge you a fee, not to exceed $35 or the maximum amount allowed by law, whichever is less.
* Check your account statement to verify that the amounts debited from your account are correct.
* Advise us if the payment account is transferred or closed, or if the account details change.
* Arrange an alternate payment method if you cancel the scheduled withdrawal.

2.3 Cancellation and Payment In Full.

If you fail to make any payment required under a payment plan, and you fail to bring your account current within three days after we give you notice of any default, we may terminate this Agreement and require payment in full for any outstanding amounts.

**3. MEMBERSHIP PLAN PROVISIONS**

3.1 Membership Plan Set-Up.

We may decide in our sole and absolute discretion whether to accept you into our membership plan. If we agree to accept you into our membership plan, and you agree that your payments will be made by automated means, either by periodically withdrawing money from your bank account or charging a credit card, the Bill Payment Service Provisions above shall apply to you.

3.2 Description of Program Features.

The program features of the Practice’s membership plan are described in materials published by the Practice, either online or in hard copy, and those published provisions are incorporated into this Agreement as if set forth in full herein. The Practice agrees to provide the services described in the membership plan upon the terms described therein.

3.3 Modification of Membership Plan.

The Practice may modify the provisions of the membership plan in its sole discretion at any time. However, any modifications of the membership plan by the Practice that materially increase your costs or liabilities shall not take effect until thirty (30) days after notice of the modification is given to you.

3.4 Discounts; Membership Plan is Not Insurance.

You acknowledge that the membership plan is a program of discounts, coupons, and other provisions that are intended to allow you to make regular monthly or annual payments that tend to reduce your out-of-pocket expenses when needs arise. However, there is no guarantee that you will save money overall. You acknowledge that the membership plan is not insurance, and you will still be personally responsible for all the charges related to services provided by the Practice, subject to any discounts or other provisions contained in the membership plan.

3.5 Complaint Procedure.

If you have a complaint regarding the membership plan or its application by the Practice, you agree to bring your complaint directly to the Practice before complaining to any third party or authority. You agree to allow the Practice thirty (30) days after notice of your complaint to attempt to resolve your concern before commencing any other administrative action or legal proceeding.

3.6 Cancellation and Refunds.

You may cancel your membership plan at any time. However, unless otherwise agreed by the Practice, you will not receive a refund of any of the fees you have paid under the membership plan prior to the date you cancel the plan.

**4. GENERAL TERMS**

4.1 Disputes.

In the event of a dispute regarding any of the Ancillary Services, except as expressly provided in this Agreement, you and the Practice agree to resolve the dispute by looking solely to this Agreement. You agree that this Agreement is the complete and exclusive statement of the agreement between you and the Practice which supersedes any proposal or prior agreement, oral or written, and any other communications between you and the Practice relating to the subject matter of this Agreement, except as to the provisions of any membership plan that are expressly incorporated into this Agreement. In no event will the provider of the tools or software making the Service available be named as a defendant in any legal action arising out of or related to this Agreement, and such party is a third-party beneficiary of this Agreement to the extent necessary to enforce this provision.

4.2 Assignment.

You may not assign this Agreement to any other party. The Practice may assign this Agreement to any future, directly or indirectly, affiliated company and may convey the information it receives regarding you to any entity or individual who is a successor in interest to the Practice’s property, whether by sale, merger, acquisition, or otherwise. The Practice may also assign or delegate certain of its rights and responsibilities under this Agreement to independent contractors or other third parties.

4.3 Alterations and Amendments; In-Person, Telephonic, and E-Mail Revisions.

This Agreement, applicable fees and service charges may be altered or amended by the Practice from time to time. In such event, the Practice shall provide notice to you. Any use of the Ancillary Services after the Practice provides you a notice of change will constitute your agreement to such change(s).

You agree that in the course of receiving professional services, the amounts you agree to pay via the programs offered as Ancillary Services will likely change. For example, you may add professional services to your treatment plan, you may pre-pay some of the costs, or the insurance estimates or payments may change. In such cases, your payment plan or bill pay arrangements may change. You agree that any such revisions will be subject to the provisions of this Agreement and that you will make payment as provided herein. You agree that disclosures required by the Truth in Lending Act or similar laws may be made to you orally by our personnel at the time of any revision or in writing (including via e-mail) promptly thereafter.

Other than to make these limited revisions arising out of changes to your treatment plan, none of our personnel have the authority to change any of the provisions of this Agreement. Particularly, none of our personnel have the authority to waive any payment, to agree to extend any additional credit, or to extend the period for payment.

4.4 Electronic Communication.

You acknowledge that the essence of this Agreement involves electronic communication, and you agree to receive communication from the Practice electronically via e-mail and other methods. You agree that official notice may be provided to you via the e-mail address you provide to the Practice and that you will not require additional mail notice of any financial, procedural, or legal matter.

4.5 Warranty Disclaimer and Liability Limits.

THE PRACTICE MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER, EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT. THE PRACTICE EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, AND TITLE. THE PRACTICE DOES NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE ANCILLARY SERVICES OR THE PRACTICE’S ONLINE PLATFORM, OR AGAINST INFRINGEMENT. THE PRACTICE DOES NOT WARRANT THAT THE ANCILLARY SERVICES OR THE PLATFORM WILL BE ERROR-FREE OR THAT OPERATION OF THE ANCILLARY SERVICES WILL BE SECURE OR UNINTERRUPTED OR THAT THEY WILL COMPLY WITH ANY APPLICABLE LAWS OR ALLOW YOU TO COMPLY WITH ANY APPLICABLE LAWS.

EXCEPT WITH REGARD TO THE PRACTICE’S WILLFUL MISCONDUCT, NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, AND IN CONSIDERATION OF THE RELATIVE RISKS AND REWARDS, THE PRACTICE WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO YOU OR ANY THIRD PARTY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF THE PRACTICE IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING; NOR, EXCEPT FOR THOSE ITEMS LISTED ABOVE IN THIS PARAGRAPH, SHALL THE PRACTICE’S TOTAL LIABILITY OF ANY KIND ARISING OUT OF OR RELATED TO THESE TERMS, REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAYABLE BY YOU FOR THE ANCILLARY SERVICES DURING THE TWELVE MONTHS PRECEDING THE ACT OR OMISSION THAT PRECIPITATED THE CLAIM.

4.6 Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State in which the professional services are rendered, without reference to the United Nations Convention on the International Sales of Goods. The Parties hereby submit to the exclusive personal jurisdiction of the state and federal courts located in the state in which the professional services are rendered.

4.7 Severability. If any provision of this Agreement, including without limitation the warranty disclaimer and liability limitation terms, shall be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provisions.

4.8 Headings. The headings used in the Terms are for ease of reference only. They are not intended as a complete re-statement of the matters contained under each heading, and you acknowledge that you have read and understand all the text of this Agreement, and not just the headings.

4.9 Attorney Fees, Court Costs. In case of an action to enforce any rights or conditions of this Agreement, or appeal from said proceeding, it is mutually agreed that the losing party in such suit, action, proceeding or appeal shall pay the prevailing party’s reasonable attorney fees and costs incurred.

4.10 Waiver. No waiver of any of the provisions of this Agreement by the Practice is binding unless authorized in writing by an executive officer of the Practice. In the event that the Practice waives a breach of any provision of this Agreement, such waiver will not be construed as a continuing waiver of other breaches of the same nature or other provisions of this Agreement and will in no manner affect the right of the Practice to enforce the same at a later time.

4.11 Force Majeure. The Practice will not be liable for, or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond the Practice’s reasonable control. While the Practice will strive to perform the Services in the manner described in this Agreement, we do rely on third parties to provide us services on which we rely, and you acknowledge that we will not be liable when the failure of third parties prevents us from performing up to the standards we have adopted.

4.12 Taxes. You are responsible for all taxes and other governmental fees or charges that are payable by reason of this Agreement, other than taxes on the Practice’s net income.

4.13 Notices. Except as explicitly stated otherwise, legal notices will be served, with respect to the Practice, on the Practice’s national registered agent, and, with respect to you, to the email address associated with your account. Notice will be deemed given 24 hours after the email is sent, unless the sending party is notified that the email address is invalid. Alternatively, we may give you legal notice by mail to either the mailing address or billing address provided during the sign-up process. In such case, notice will be deemed given three days after the date of mailing.