



AMENDED ROYALTY AGREEMENT
Version 08.23.2020

This Amended Royalty Agreement (the “Agreement”) is made effective as of <Effective Date> (“the Effective Date”), by and between Open and Affordable Dental LLC, a Colorado Limited Liability Company (“Licensor”) and <Open and Affordable Dental Somewhere, PLLC>, a Colorado Professional Limited Liability Company (“Licensee”). Licensor and Licensee are each referred to herein as a “Party” and together as the “Parties.” Reference is made to the following facts:

RECITALS

A. Licensor maintains a dental marketing business whereby Licensor has staff, furnishings, equipment, supplies, trade names, and logos (“Services”) which are used in its business, and wishes to grant to Licensee the non-exclusive right to use such Services.

B. Licensee maintains a dental practice (“Practice”) with offices located at <Office Address>, and wishes to use certain of the Services in connection with its Practice, pursuant to the terms of this Agreement.

C. The Parties hereto are not partners, and nothing in this Agreement shall be deemed to constitute the formation of a group practice, partnership, joint venture, or the employment of one Party by the other.

D. <Partner 1>, and <Partner 2> is(are) the only member(s) of Licensee.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the Parties hereby agree as follows:

1. OBLIGATIONS OF LICENSOR

1.1 Licensor Services (Included in 3% Royalty). Licensor agrees to provide the following to Licensee:

- Use of Licensor’s trademarked name, Open and Affordable Dental and Braces and any variations thereof as agreed to by the Parties, and logo;
- Installation of Patterson Eaglesoft Dental Practice Management Software along with appointment types, fee schedules, insurance companies, electronic claims processing, and digital charting;

Initial configuration of IT networking, databases, and digital assets;
Initial setup of credit card terminal and processing;
Initial credentialing with insurance companies and Medicaid.
Licensor Website and individual Open and Affordable Dental and Braces webpage with
Search Engine Optimization by location;
Assistance with securing necessary financing for the Practice and Practice assets;
In-office forms, including: consent forms, new patient forms, and post-operative
instructions;
Office manuals, including: doctor's operating manual, front office manual, middle office
manual, and employee manual.
Initial setup of payroll services;
Initial setup of accounting services;
Initial and continuing Mentoring of Licensee doctors.
Initial hiring and training of staff

1.2 Optional Additional Services. In addition to the above, Licensor shall provide further services ("Optional Additional Services"). If any Optional Additional Services are provided, an additional fee beyond the Royalty Fee shall be charged as passthrough and transparent. These Required Additional services include but are not limited to:

Recurring insurance credentialing
Recurring staff hiring and training
Recurring insurance verification
Collection of accounts receivable
Offsite storage of physical assets
Marketing

1.3 Required Additional Services. In addition to the above, Licensor shall provide further services ("Required Additional Services"). If any Required Additional Services are provided, an additional fee beyond the Royalty Fee shall be charged as passthrough and transparent. These Required Additional services include but are not limited to:

After hours phone service
Practice accounting and professional services
Practice audits and reconciliation
Facilities and Information Technology management
Marketing individualized to office;

2. OBLIGATIONS OF LICENSEE

2.1 Compensation to Licensor. In exchange for Licensor's provision of Services, except for the Additional Services, Licensee will pay to Licensor a Royalty Fee equal to Three Percent (3%) of all of Licensee's net collections. Net collections is defined as all revenue including patient fees, specialist revenue and rent, EHR receipts, minus patient refunds.

2.2 Hours of operation. The Practice shall maintain open office hours of 7:30 AM to 7:30 PM Monday through Saturday (unless, due to unavoidable and unpredicted circumstances, Licensee is unable to be open or if the Parties agree to modify the hours).

2.3 Marketing. All of Licensee's marketing shall be performed or approved by Licensor.

2.4 Name of Licensee. Licensee shall operate the Practice using the name Open and Affordable Dental and Braces or Open and Affordable Dental and shall never change that name unless agreed to by the Parties.

2.5 Non-Competition. <Partner 1>, and <Partner 2> agree(s) that, from and after the Effective Date and continuing until the expiration of this Agreement (such period being referred to as the "Restricted Period"), <Partner 1>, and <Partner 2> shall not enter into or engage in the practice of any dentistry, general or special dentistry, as a sole proprietor, partner, shareholder, officer, director, employee, independent contractor of any company, professional corporation, or any other entity, or in any manner become associated with, affiliated with, or financially interested in any general or specialty dental practice except for those practices operating under the "Open and Affordable Dental and Braces" name within the geographic area dictated by **Exhibit 1.01** without written consent by both parties. The parties agree that the above time period and geographical area are reasonable. <Partner 1>, and <Partner 2> acknowledge(s) that the remedy at law for a breach of the foregoing will be inadequate and that <Partner 1>, and <Partner 2> shall, in addition to all other remedies available at law or in equity, be entitled to seek injunctive relief, without being required to post any bond therefore.

2.6 Licensor Manuals. Licensee agrees to adhere to the operating manuals by Licensor in the operation of the Practice.

2.7 Right to Audit and Review. Licensor shall have the reasonable right to review the financials of the Practice in order to calculate the Royalty Fee. Licensor has the reasonable right to acquire and publish to other offices the following metrics:

- Production
- Collection
- Expenses
- Number of new patients scheduled
- Number of hygiene Appointments
- Number of hygiene hours worked
- Number of hygiene patients reappointing
- Number of no shows
- Number of total monthly appointments
- Staff turnover

2.8 Office Territory: Open and Affordable Dental LLC will not license other offices within the office territory detailed in Exhibit 1.01 except by written consent by both parties.

3. TERM AND TERMINATION

3.1 Term. The initial term of this Agreement shall commence on the Effective Date first written above, and shall continue indefinitely until terminated by the joint written agreement of the Parties.

4. INDEPENDENT CONTRACTORS

Nothing about this Agreement shall be interpreted as creating or implying any affiliation between Licensee and Licensor, the Parties agreeing that no such affiliation exists. Rather, through the terms of this Agreement, the Parties desire only to confirm the terms under which Licensee shall have the right to use Licensor's Services in accordance with the terms of this Agreement. In the performance of the duties and obligations hereunder by Licensor and Licensee, the Parties shall, at all times, act and perform the duties and functions in the capacity of independent contractors. Neither this Agreement nor the exercise of any of the duties of Licensor or Licensee hereunder shall be deemed to create any partnership, joint venture, association, or other relationship between the Parties hereto other than independent contractors, each as to the other.

5. MISCELLANEOUS

5.1 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the Licensor's provision of Services and supersedes any and all prior or contemporaneous agreements, either oral or written, between the parties hereto with respect thereto. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute a waiver of another provision, whether or not similar, nor shall any waiver constitute a continuing waiver. This Agreement may not be modified except by an instrument in writing executed by both Parties.

5.2 Unavoidable Delays; Force Majeure. Neither Party shall be responsible for any delay or disruption in the performance of any act required by this Agreement by reason of any cause beyond the control of the Parties (financial inability excepted), including but not limited to fires, earthquakes, floods or other acts of God, the actions of governmental authorities, wars, insurrections, strikes and lockouts. The performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

5.3 Governing Law. The rights, duties and obligations of the Parties and the validity interpretation, performance and legal effect of this Agreement shall be governed and determined

by the internal laws of the State of Colorado without regard to the conflicts of law rules applied under Colorado law.

5.4 No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to anyone other than the Parties to this Agreement. No one is an intended third-party beneficiary of this Agreement.

5.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, assigns and legal representatives.

5.6 Notices. Any notice required or permitted under this Agreement to any Party shall be deemed sufficiently made and given if personally delivered to or deposited in the United States mail, postage prepaid, as follows:

If directed to Licensor:

Open and Affordable Dental, LLC
250 E. Colfax Ave
PO Box 514
Bennett, CO 80102

If directed to Licensee:

<Office Address>

or to such other address as either Party from time to time informs the other in writing.

5.7 Arbitration. The parties agree that any and all differences, controversy or claims arising out of or relating to this Agreement, or the breach of this Agreement and any related documents that cannot be resolved by the parties acting and negotiating in good faith, prior to the commencement of arbitration, shall be submitted to mediation. In the event the parties are unable to agree on the selection of a mediator, a mediator selected by Judicial Arbiter Group, or its successor shall serve as mediator. In the event the dispute is not resolved through mediation, the parties agree that the dispute shall be submitted to and settled by binding arbitration in Colorado through the Judicial Arbiter Group. However, notwithstanding the above, the parties agree that any claim for injunctive relief shall be decided by a court of competent jurisdiction without any requirement that the issue first be submitted to arbitration. In the event the parties are unable to mutually agree as to the selection of an arbitrator, each party shall select one arbitrator, and the two so selected shall select a third arbitrator who shall jointly arbitrate the dispute. Any arbitration determination shall be final and absolute. Judgment upon the award may be entered in any court having jurisdiction. The prevailing party shall be entitled to all reasonable costs and expenses, including reasonable legal and accounting fees.

5.8 Attorneys' Fees. If any arbitration or action at law or in equity is initiated in order to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to collect from the other Party reasonable attorneys' fees and costs in addition to any other relief to which such Party may be entitled.

5.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.10 Headings. The section and other headings contained in this Agreement and in the Exhibits to this Agreement are included for the purpose of convenient reference only and shall not restrict, amplify, modify or otherwise affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement on the Effective Date.

Licensor: Open and Affordable Dental, LLC

By:
Dr. Jason Stott, Manager

Licensee: <Open and Affordable Dental Somewhere, PLLC>

By: _____
<Partner 1>, Manager

By: _____
<Partner 2>, Manager

EXHIBIT 1.01 OFFICE TERRITORY

