**Sample Universal Residency Contract**

The following Contractual Agreement for AACD Universal Residency Program Participants is a sample of an agreement to be entered into between a preceptor’s dental practice and the resident.

*The sample agreement is not legal advice to you.* The American Academy of Cosmetic Dentistry recommends you have it reviewed with legal counsel, since revisions may need to be made to address your state’s laws.

The sample agreement assumes that your dental practice is operated through some sort of limited liability entity, such as a professional service corporation or professional limited liability company. The agreement would then be with your limited liability entity as the employer, but you or another dentist in your practice would be named to serve as the preceptor.

Please note that there are blanks that you and your counsel will need to complete, such as:

* the date of agreement, the name of your professional limited liability entity that will employ the resident, and the name of the resident and the state in which the resident must be licensed (introductory paragraph);
* the name of the dentist who will serve as preceptor (Background paragraph);
* the state in which you practice and, therefore, the state laws that will apply (Sections 1, 2, 8.e., and 22;
* the start and end dates for the residency program (section 2);
* the location for arbitration of any dispute (Section 15); and
* the name of your professional limited liability entity that will employ the resident (signature block for Employer).

As this agreement was drafted, Exhibit A is the description of the residency program. **Please note that the last paragraph of Exhibit A (relating to the role and liability AACD) must be included and cannot be changed.**

Exhibit B would be used to specify the compensation and benefits that will be provided to the resident. You may also wish to have other Exhibits for other aspects of your employment of the resident such as a non-compete.

**Please note that you also must include and cannot change the Indemnity provision (Section 14), which provides protections for you and for AACD.**

**CONTRACTUAL AGREEMENT FOR AACD UNIVERSAL RESIDENCY PROGRAM PARTICIPANTS**

This Agreement for Residency Program (the "Agreement") is made as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201\_\_ between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_ ("Employer"), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who is or who will be licensed to practice dentistry in the state of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Resident").

**Background**

Employer has offered Resident a resident training program in cosmetic dentistry, as further described in the attached Exhibit A (the “Residency Program”). Employer will have \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Preceptor”) serve as the Resident’s preceptor for the Residency Program. Resident has accepted the resident position in the Residency Program. As a member of this program, Resident will be a full-time Resident pursuant to the terms of this Agreement.

Agreement

The parties accordingly agree as follows:

1. Employment. As part of the Residency Program, Employer employs Resident to engage in the practice of dentistry with a specialty in cosmetic dentistry to the extent permitted by the laws of the state of \_\_\_\_\_\_\_\_\_\_\_\_\_ regulating dentists, and Resident accepts such employment on the terms and subject to the conditions contained in this Agreement. Resident acknowledges that nothing contained in this Agreement is to be construed as any potential offer of employment by Employer or Preceptor following Resident’s completion of the Residency Program.   
     
   During the term of this Agreement: (a) Resident will receive the compensation and benefits identified in the attached Exhibit B; and (b) Resident will obtain, maintain and pay for professional liability insurance that is approved in advance by Employer. Upon Employer’s request, Resident will provide Employer with proof of such insurance. Resident also will be responsible for any disability insurance that Resident wishes to carry.
2. Term. The term of this Agreement begins on \_\_\_\_\_\_\_\_\_\_\_\_\_, 201\_ (the "Commencement Date") and continues through \_\_\_\_\_\_\_\_\_\_\_\_\_, 201\_, unless terminated earlier in accordance with Section 8 of this Agreement. This Agreement is contingent upon Resident satisfying each of the following as of the Commencement Date: (a) Resident’s application to participate in the Residency Program being true and complete; (b) Resident having an unrestricted license to practice dentistry in the state of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; (c) Resident having the professional liability insurance required under Section 1; and (d) Resident being a United States citizen or having all required immigration permits and approvals to live and work in the United State as a foreign citizen.
3. Duties. Resident shall participate in the Residency Program on a full-time basis. Resident shall provide safe, effective and compassionate patient care under the general supervision of the Preceptor. Resident shall perform such services in accordance with the prevailing standard of care in the community and in accordance with Employer’s policies and procedures, the Residency Program and all applicable laws and regulations. Resident will not engage in the practice of dentistry except as a Resident of Employer, unless otherwise authorized in writing and in advance by Employer. Employer shall have the power to determine the specific duties to be performed by Resident, the means and the manner by which those duties shall be performed, the locations where such duties will be performed, the assignment of patients to Resident, and Resident's days and hours of performing such duties; provided, however, that all such duties will be consistent with Resident's training and qualifications and further provided that Resident shall exercise independent dentistry judgment consistent with the clinical needs and consent of each patient treated by him/her.
4. Working Facilities. All equipment, supplies, personnel, and facilities deemed necessary by Employer for Resident to provide services under this Agreement shall be provided by Employer at Employer's expense.
5. Certificate. If Resident fulfills the requirements of the Residency Program, Resident will receive a certificate of completion from the American Academy of Cosmetic Dentistry, Inc.
6. Fees. All fees, other compensation (other than regular compensation provided by this Agreement or any fees, salaries, commissions, royalties, or other compensation specifically exempted from this provision by Employer in writing) and payments earned by Resident for professional services or activities related to Resident's duties under this Agreement shall be the property of Employer. Resident shall cooperate with Employer by providing information to Employer to enable it to account for such fees and to bill for all services provided by Resident under this Agreement. Employer will have the sole right to bill and to set the charges for all of Resident's professional services provided under this Agreement. Resident assigns to Employer Resident's right to receive payment from any third party payor and any federal or state health insurance program (including Medicare and Medicaid) for professional services provided by Resident under this Agreement. Resident shall promptly tender to Employer all amounts directly received by him/her for services performed under this Agreement.
7. Records. Resident shall promptly and accurately prepare the dental chart and record services rendered in connection with each patient and shall follow all policies and procedures necessary to permit Employer to bill for Resident's services. All such records and charts are the sole property of Employer, and, upon any termination of this Agreement, Resident shall not be entitled to keep or preserve lists of patients or any such records or charts.
8. Termination. Either party may terminate this Agreement at any time upon at least 60 days prior written notice to the other party. This Agreement will also automatically terminate upon Resident's disability as set forth in Section 9 or upon Resident’s or Preceptor’s death. Employer may, in its sole discretion and written notice to Resident, terminate this Agreement immediately upon the occurrence of any of the following events:

a. Resident commits any fraud, crime, material act of dishonesty or willful misconduct;

b. Resident violates patient-confidentiality law or discloses confidential information or trade secrets of Preceptor and/or Employer to any third party without prior written authorization from Employer;

c. Resident fails to comply with any provision of this Agreement or the customary and professional duties of a dentist and does not cure such failure within the time period reasonably specified by Employer in a written notice specifying such failure;

d. Resident engages in illegal drug use, sexual harassment, or unethical business practices;

e. Resident's license to practice dentistry in the state of \_\_\_\_\_\_\_\_\_\_\_\_\_ lapses or is revoked, suspended, or restricted in any way, or if Resident loses the right to participate with any third party payor with which Employer or any other of Employer’s dentists participate;

f. Resident's professional liability insurance coverage is terminated for any reason and Resident is unable to promptly obtain replacement coverage reasonably satisfactory to Employer; or

g. Resident acts in any way that has a substantial adverse effect on Employer’s or Preceptor’s business reputation, including but not limited to Resident committing malpractice.

Upon any termination of this Agreement, Resident's compensation will cease as of the date of termination, and Resident will not be entitled to any severance or similar payments.

1. Disability of Resident. For purposes of this Agreement, "disability" means a mental or physical impairment that (a) substantially limits one or more of Resident's major life activities and (b) renders Resident unable to perform the essential functions of Resident's position with or without reasonable accommodation. An independent physician selected by Employer shall determine whether such disability exists, whose determination shall be final and binding on the parties. Resident's disability for a period of less than 30 days shall not be grounds for termination. Resident's salary shall cease upon any disability until Resident is able to return to full-time employment. If Resident is not able to return to full-time employment within 30 days from the occurrence of the disability, Employer may then terminate this Agreement.

If Resident returns to his/her full-time employment under this Agreement for a continuous period of 60 days or more following any disability lasting for less than 30 days, any subsequent disability, whether or not resulting from or contributed to by the same cause of the original disability, shall be regarded as a new period of disability, and Resident's rights under this Section 9 shall commence again as if it were a new disability. If, however, the continuous period of Resident's return to his or her full-time employment under this Agreement is less than 60 days, then any subsequent disability, whether or not resulting from or contributed to by the same cause of the original disability, shall be deemed a continuation of the previous disability, and the entire period of disability shall be regarded as a period of continuous disability for purposes of this Agreement.

1. Death During Employment. If Resident dies while employed by Employer, Employer shall pay to the estate of Resident the compensation which would otherwise be payable to Resident up to the end of the month in which death occurs.
2. Confidentiality. Resident acknowledges that, in participating in the Residency Program, Resident will have access to Confidential Information of Employer and Preceptor. Resident agrees that he/she will use reasonable efforts to protect all such Confidential Information and that he/she will not disclose any such information to any third party without Employer’s prior written consent. Resident also agrees that he/she shall neither disclose to Employer or Preceptor nor use in the Residency Program any third-party confidential information that is subject to restrictions on disclosure. Upon termination of this Agreement, Resident will surrender to Employer all Employer and Preceptor confidential information and records, in whatever medium, form or format, including all copies and all other property whatsoever belonging to Employer and/or Preceptor. Resident's obligations to protect Employer’s and Preceptor’s Confidential Information shall survive the termination of this Agreement.  
    **“Confidential Information”** means financial information, business plans, patient and vendor lists and pricing and all other information which by its nature would reasonably be considered to be confidential. Confidential Information does not include information or material that: (i) was in the public domain prior to the date of this Agreement or that subsequently comes into the public domain through no fault of the Resident; (ii) the Resident can show through tangible evidence was known to the Resident at the time of Employer’s or Preceptor's disclosure of the information to Resident and not acquired directly or indirectly as a consequence of the Resident’s relationship with Employer and Preceptor; (iii) the Resident can show was lawfully received by the Resident from a third party free of any obligation of confidentiality; or (iv) is required to be disclosed in a judicial or administrative proceeding or by a governmental or regulatory authority, domestic or foreign. The Resident agrees to promptly give Employer notice of any request for a disclosure described in the preceding clause (iv).
3. Patient records. Resident further agrees that he or she shall protect the financial and health information of patients consistent with state and federal law.
4. Acknowledgement. Resident acknowledges that the Residency Program has not been approved or officially recognized by any college or university, or governmental entity.
5. Indemnity. Resident agrees that he/she will hold harmless and indemnify Preceptor, Employer and Employer’s officers, directors, shareholders, employees, agents, successors, and assigns and the American Academy of Cosmetic Dentistry, Inc. and its affiliates (collectively, **“AACD”**) from and against all liabilities, costs, damages, and expenses, including, but not limited to, attorney fees, resulting from or attributable to any acts or omissions of Resident that result in a termination of this Agreement under Section 8(a) - (g); provided, however, that Resident shall not be required to reimburse Preceptor, Employer or AACD for such liabilities, costs, damages, or expenses to the extent they are compensated for by insurance proceeds paid to Preceptor, Employer or AACD, respectively. AACD is a third-party beneficiary of this Section 14.
6. Arbitration. Except as otherwise provided by this Agreement, if a dispute arises between the parties relating to this Agreement or Resident's employment with Employer, the dispute shall be resolved exclusively through arbitration in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_, pursuant to the applicable rules and procedures of the American Health Lawyers Association (**“AHLA”**). A single arbitrator shall be appointed by the AHLA in accordance with its procedures. The determination of the arbitrator shall be final, binding, and conclusive on the parties. Application may be made to any court of competent jurisdiction for an order enforcing such determination. The fees and expenses of the arbitrator shall be paid equally by Employer and Resident, but all other fees and expenses, including legal fees and expenses, shall be paid by the party incurring them, unless otherwise provided by this Agreement.
7. Amendments. No amendment or variation of the terms and conditions of this Agreement shall be valid unless in writing and signed by each party.
8. Notices. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if hand delivered to either party or if sent by certified mail to Resident's last known address or delivered to Employer's principal office.
9. Severability. Any provision of this Agreement which is determined to be invalid, void, or illegal shall not affect, impair, or invalidate any other provision, and the remaining provisions of this Agreement shall remain in full force and effect.
10. Headings. The section headings contained in this Agreement are employed solely as a matter of convenience and shall not be used to interpret, limit, or expand any provision of this Agreement.
11. Assignment. Neither party may assign any of his or her rights or obligations under this Agreement without the written consent of the other party. This Agreement will be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.
12. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all other agreements between the parties relating to Resident's employment with Employer and the Resident Program.
13. Miscellaneous. This Agreement shall be construed in accordance with the laws of the state of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Certain provisions of this Agreement will survive the termination of this Agreement including, but not limited to, Sections 6, 7, 8, 10, 11, 12 and 14 through 22.

The parties have executed this Agreement as of the day and year first written above.

EMPLOYER

By

, Its

(name) (title)

EMPLOYEE:

(Name of Employee)

### EXHIBIT A

Description Residency Program

Resident acknowledges that the Residency Program has not been approved or officially recognized by any college or university or governmental entity.

Resident agrees to participate fully in the educational activities which will include “over the shoulder” and “hands on” learning, online and other assigned readings.

Educational activities will include but are not limited to

1. PreClinical direct and indirect restorations

2. Patient Diagnostic work-up and analysis

3. Mock-up with Wax or Composite

4. Literature review -- Extensive reading

As this is the first year, much time will be spent weekly on going through the literature and articles that will be used for future years of the Residency Program

5. Comprehensive, esthetic dentistry, patient care

a. Direct and Indirect Composite restorations - Anterior and Posterior

b. Indirect all-ceramic restorations - Anterior and Posterior

c. PerioPlastic-- not at all preceptors sites

d. Orthodontics-- limited, minor tooth movement. Not at all preceptor sites

Resident also acknowledges the role of the American Academy of Cosmetic Dentistry, Inc. and the American Academy of Cosmetic Dentistry Charitable Foundation, Inc. (collectively, **“AACD”**) in the Residency Program is limited to accepting applications, reviewing and doing preliminary verification of information in the applications and attempting to match accepted applicants with an AACD member who is willing to serve as a preceptor. Resident further acknowledges that: (i) AACD does not decide whether the preceptor and resident will be matched (that is the decision of the preceptor and the resident); (ii) the preceptor designs and implements its residency program; and (iii) the preceptor supervises the resident.

### Exhibit B

### Compensation and Benefits

F:\DOCS\WD\37015\2\A3122996.DOCX