

SERVICE AGREEMENT

BY AND BETWEEN

AND

_____, P.C.

AS OF _____, _____

GARFUNKEL, WILD & TRAVIS, P.C.
111 Great Neck Road
Great Neck, New York 11021
(516) 393-2200

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AGREEMENT made as of the ___ day of February, 1998, by and between _____, a New York limited liability company with a principal office located at _____ ("Venture") and _____, P.C., a New York professional corporation with a principal office at _____ (the "P.C.").

W I T N E S S E T H:

WHEREAS, Venture agrees to provide the P.C. with certain managerial services in order to enable the P.C. to conduct a private practice of radiology at _____ (the "Office");

WHEREAS, the P.C. wishes to engage Venture to provide it with such managerial services; and

WHEREAS, the Parties have elected to enter into this Agreement to memorialize their agreement with respect to the provision of services by Venture to the P.C.

NOW, THEREFORE, the parties agree as follows:

1. Services To Be Supplied By Venture

Venture agrees to provide the P.C. with certain practice management services and the P.C. agrees to engage Venture to provide it with such practice management services, which shall include (hereinafter "Managerial Services"):

(i) General Management. Venture shall have authority and responsibility to manage, conduct and administer the day-to-day administrative and non-professional operations of the Office and shall perform those functions pursuant to the terms of this Agreement and consistent with applicable laws, rules and regulations.

(ii) Fiscal Matters. Venture shall, upon consultation with the P.C., develop a budget for the P.C.'s approval, which will include projected revenues, expenses, and volume of service. Venture will establish and maintain accounting procedures and controls with respect to the P.C.'s business operation and the generation and preparation of financial records and reports.

(iii) Supplies. Venture shall provide the P.C., with such office and medical supplies ("Supplies") as are

reasonably necessary for patient care and treatment and the operation of the Office by the P.C.

(iv) Personnel. Venture shall provide, on behalf of the P.C., all non-professional support personnel including, but not limited to, receptionists, secretaries, clerks, bookkeeping, management personnel and/or other personnel as agreed to by the parties from time to time. Venture shall be responsible for recruiting, training, managing, supervising, compensating and terminating such personnel. Venture shall be responsible for all salaries, fringe benefits, taxes and insurance necessary with respect to such individuals.

(v) Billing and Collection. Venture shall provide all billing and collection services for the P.C. at the Office. Venture represents, warrants and covenants that it will comply in all material respects with all applicable Federal and State laws, rules, and regulations (including, without limitation, all applicable laws, rules and regulations of the Medicare, Medicaid, Workers' Compensation, and No-Fault Insurance Programs) with respect to its duties hereunder. In addition, and without limiting the foregoing, Venture will comply in all material respects with all billing rules and guidelines of other third party payors which are actually known to Venture or are provided to Venture by the P.C. (e.g., other managed care arrangements). The P.C. represents, warrants and covenants that it shall be responsible for providing Venture with accurate coding information, in all material respects, with respect to patient encounters in accordance with all applicable Federal and State laws, rules and regulations (including, without limitation, all applicable laws, rules and regulations of the Medicare, Medicaid, Workers' Compensation and No-Fault Insurance Programs). All collections, with respect to the P.C.'s services, shall be deposited in a bank account at _____ Bank. [The P.C.] shall have [sole] signature authority with respect to such account.

Venture shall provide such services directly or through one or more third parties engaged by Venture.

2. Term.

The term of this Agreement shall commence as of February __, ____ and shall continue until _____, __, ____, unless terminated as herein provided.

3. Fee Payments.

In consideration of the items and services being provided hereunder by Venture, the P.C. shall pay Venture for management services as follows:

(a) Amount. Venture and the P.C. hereby acknowledge that Venture has and will incur substantial costs and expenses in providing the services set forth in this Agreement, and that such costs and expenses will vary during the term of this Agreement. In consideration thereof, the P.C. hereby agrees to pay to Venture a monthly fee (the "Monthly Fee"). The amount of such Monthly Fee is set forth on Exhibit "A." On or before a date which is twelve (12) months after the License Commencement Date and on or before each annual anniversary of such date thereafter, the parties shall renegotiate the Monthly Fee charged by Venture hereunder for the following twelve (12) month period to reflect any increases or decreases in Venture's costs in providing the items referred to herein. Any change in such Monthly Fee shall be reflected on an amended copy of Exhibit "A".

(b) Manner of Payment. Venture shall submit to the P.C. monthly invoices for the Monthly Fee due to Venture for the prior month. Payment by the P.C. shall be due, subject to Section (c) below, no later than thirty (30) days after presentation of Venture's monthly invoice.

(c) Monthly Fee Deferrals. Payment by the P.C. of the Monthly Fees due to Venture during the term of this Agreement may be deferred and accrued (not abated), but only to the extent that the cash collections of the P.C., less the Monthly Fee payable in any given month, would leave the P.C. with insufficient income to pay in such month the monthly budgeted expenses (the "Minimum Retention"), as set forth on Exhibit B. The Minimum Retention amount shall be modified from time to time (but no more than once in any twelve (12) month period) upon the written consent of the parties to reflect any agreed changes in the budgeted expenses of the P.C. To the extent monthly cash collections exceed the aggregate of the Monthly Fee and the Minimum Retention for any month, all collections in excess of amounts necessary to pay the Monthly Fee for such month (and the P.C.'s Minimum Retention for such month) shall be paid to Venture to the extent necessary to pay any past due Monthly Fees hereunder (by reason of deferral or otherwise). The Parties acknowledge that all collections of the P.C. shall be used to pay, subject to the terms hereof, any amounts due Venture hereunder, including any deferrals made in accordance with this Section 3(c). If the P.C., or its shareholders, take any action to divert payment of P.C. collections from Venture as required hereunder, such shareholders shall, and hereby agree, to

be personally liable for all remaining amounts due Venture hereunder (including, without limitation, any deferred payments due Venture hereunder). This Section 3(c) shall expressly survive any termination of this Agreement.

(d) Establishment of Professional Fees. The establishment of the professional fees to be charged patients by the P.C. shall be within the sole discretion of the P.C. and shall be commensurate with those charged by similarly situated professional practices in the area in which the P.C. practices.

(e) Collateral. So long as any Monthly Fees remain unpaid, Venture shall, to the extent authorized by law, have a continuing security interest in all accounts receivable of the P.C. up to the amount of all unpaid fees (including, all reasonable costs incurred by Venture in collecting such fees), whether hereinafter existing or later-acquired, evidencing services rendered and all accessions thereto, substitutions therefor and replacements, products and proceeds thereof. From time to time, the P.C. shall promptly execute and deliver any and all further instruments and documents, and take all further action that Venture may reasonably request, in order to perfect any security interest granted or purported to be granted by the P.C. hereunder or to enable Venture to exercise and enforce its rights and remedies hereunder with respect to the collateral in which a security interest has been granted. Without limiting the generality of the foregoing, the P.C. shall execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices as may be deemed necessary or desirable by Venture, or as Venture may request, in order to perfect and preserve the security interests granted to Venture hereunder. Venture hereby acknowledges that P.C. has granted a first lien on the collateral to _____, in connection with its leasing of the premises and certain equipment from such entity as well as certain other agreements between such parties.

4. P.C.'s Representations.

The P.C. hereby makes the following representations, warranties and covenants to Venture, each of which is material and is being relied upon by Venture, and each of which shall be true as of the date hereof and shall continue during the term of this Agreement:

i) Accuracy of Information. To the best of the P.C.'s knowledge, any and all factual information furnished by it to Venture in writing is true and accurate in all material respects and all information furnished by the P.C. to Venture in

writing in the future, will be true and accurate in all material respects as of the date on which such information is furnished;

ii) Licensed Providers. Each physician engaged by the P.C. to provide services at the Office shall be duly licensed to practice medicine in the State of New York.

iii) Responsibility of All Medical Services. The P.C. shall be and remain fully responsible for all medical services provided at the Office. In no event shall Venture be deemed to be involved in the practice of medicine;

iv) Duly Authorized. This Agreement has been duly authorized, executed and delivered by the P.C. and is binding upon it;

v) Duly Organized. The P.C. is duly organized under the laws of the State of New York and authorized and qualified to do all things required of it under this Agreement;

vi) Capacity to Contract. The P.C. has the capacity and authority to fulfill the obligations required of it hereunder and, to the best of the P.C.'s knowledge and belief, nothing prohibits or restricts the right or ability of the P.C. to carry out the terms hereof; and

vii) Violations of Law. Neither the P.C. nor any agreement, document or instrument executed or to be executed in connection with this Agreement, or anything provided in or contemplated by this Agreement, does or will, to the best of the P.C.'s knowledge and belief, violate any applicable law, rule or regulation or breach, invalidate, cancel, make inoperative or interfere with, or result in acceleration of maturity of, any contract or agreement to which the P.C. is bound which would affect the P.C.'s rights hereunder.

5. Venture's Representations.

Venture hereby makes the following representations, warranties, and covenants to the P.C., each of which is material and is relied upon by the P.C., and each of which shall be true as of the date hereof and shall continue during the term of this Agreement:

i) Duly Authorized. This Agreement has been duly authorized, executed and delivered by Venture and is binding upon it;

ii) Duly Organized. Venture is duly organized under the laws of the State of New York and authorized and qualified to do all things required of it under this Agreement;

iii) Capacity to Contract. Venture has the capacity and authority to fulfill the obligations required of it hereunder and, to the best of Venture's knowledge and belief, nothing prohibits or restricts the right or ability of Venture to carry out the terms hereof; and

iv) Violations of Law. Neither Venture nor any agreement, document or instrument executed or to be executed in connection with this Agreement, or anything provided in or contemplated by this Agreement, does or will, to the best of Venture's knowledge and belief, violate any applicable law, rule or regulation or breach, invalidate, cancel, make inoperative or interfere with, or result in acceleration of maturity of, any contract or agreement to which Venture is bound which would affect the P.C.'s rights hereunder.

v) Accuracy of Information. To the best of Venture's knowledge, any and all factual information furnished by it in writing to the P.C. is true and accurate in all material respects and all information furnished by Venture in writing to the P.C. in the future, will be true and accurate in all material respects as of the date on which such information is furnished.

6. Operation of Office.

(a) In the performance of their respective obligations hereunder, the P.C. and Venture shall comply with all applicable regulations and laws (including, without limitation, applicable zoning regulations and rules and regulations governing the practice of medicine) and do everything in their power to see to it that the operation of the Office is in compliance with the rules and regulations of all regulatory bodies, agencies or authorities having jurisdiction over the Office.

(b) Venture shall provide services at the Office to the P.C. from ___ a.m. to ___ p.m., Monday through Friday and Saturday from ___ a.m. to ___ p.m. All other times of operation will be as needed and as mutually agreed between Venture and the P.C..

7. Surrender of Office.

Upon the termination of this Agreement, Venture, at its own expense, shall immediately (i) vacate the Premises, and (ii) remove all of its personal property, together with all liens,

encumbrances and rights of others created by or suffered to exist by the actions or inactions of Venture.

8. Independent Contractor.

(a) This Agreement is by and between Venture and the P.C. and is not intended, and shall not be construed, to create an employment relationship, partnership or other such association as between the parties. Each party is an independent contractor of the other.

(b) Neither Venture nor its employees or agents shall look to the P.C. for vacation pay, sick leave, retirement benefits, Social Security, worker's compensation, disability or unemployment insurance benefits, or other employee benefits; nor shall the P.C. or its employees look to Venture for the same.

(c) In performing the services required hereunder, the P.C. and its physician-employees and contractors shall exercise independent professional judgment. Venture shall not exercise any control over matters of the P.C. involving the exercise of professional medical judgment.

(d) In the event the Internal Revenue Service or any other governmental agency shall, at any time, question or challenge the independent contractor status of either party, the party who received notice of same shall promptly notify the other party and afford the other party the opportunity to participate in any discussion or negotiation with the Internal Revenue Service or other governmental agency, irrespective of by whom such discussions or negotiations are initiated. The other party shall participate in any such discussions or negotiations to the extent permitted by the Internal Revenue Service or other governmental agency.

9. Default by the P.C.

(a) The occurrence of any one of the following shall constitute a default by the P.C. hereunder:

i) If the P.C. fails to pay the Monthly Fee when due, subject to permitted deferrals under paragraph 3(c) of this Agreement;

ii) If the P.C. fails to observe or perform any of its other obligations hereunder in any material respect and such failure continues uncured for a period of thirty (30) days after written notice thereof to the P.C. from Venture or, if such failure cannot be cured within such thirty (30) day period, the

P.C. has failed to commence to cure such failure within such thirty (30) day period and diligently proceed to effect such cure;

iii) If the P.C. (A) makes an assignment for the benefit of creditors; (B) admits in writing its inability to pay its debts as they become due; (C) files a petition seeking reorganization, an arrangement, readjustment, or similar arrangement under any present or future statute, law or regulation; (D) files an answer admitting the material allegations of a petition filed against it in any such proceeding; or (E) consents to or acquiesces in the appointment of a trustee, receiver or liquidator of all or any substantial part of its assets or properties;

iv) If, within thirty (30) days after the commencement of any proceedings against the P.C. seeking reorganization or similar relief under any present or future statute, law or regulation, such proceedings shall have not been dismissed, or if within thirty (30) days after the appointment (without the P.C.'s consent or acquiescence) of any trustee, receiver or liquidator of all or any substantial part of its assets or properties, such appointment shall not have been vacated; or

10. Default by Venture.

(a) The occurrence of any one of the following shall constitute a default by Venture hereunder.

i) If Venture fails to observe or perform any of its obligations hereunder in any material respect and such failure continues uncured for a period of thirty (30) days after written notice thereof to Venture from the P.C. or, if such failure cannot be cured within such thirty (30) day period, Venture has failed to commence to cure such failure within such thirty (30) day period and diligently proceed to effect such cure;

ii) If Venture: (A) makes an assignment for the benefit of creditors; (B) admits in writing its inability to pay its debt as they become due; (C) files a petition seeking reorganization and arrangement, readjustment or similar arrangement under the present or future statute, law or regulation, if any present or future; (D) files an answer admitting the material allegations of a petition filed against it and any such proceeding; or (E) consents to or acquiesces in the appointment of a trustee, receiver, or liquidator of all or any part of its assets or properties; or

iii) If, within thirty (30) days after the commencement of any proceedings against Venture seeking reorganization or similar relief under any present or future statute, law or regulation, such proceedings shall have not been dismissed, or if within thirty (30) days after the appointment (without Venture's consent or acquiescence) of any trustee, receiver or liquidator of all or any substantial part of its assets or properties, such appointment shall not have been vacated.

(b) Upon a default by Venture, the P.C. shall have the right, upon written notice to Venture, to terminate this Agreement.

11. Termination.

This Agreement shall terminate upon the following events:

i) The mutual written agreement of the parties;

ii) Either party's election, upon not less than sixty (60) day's prior written notice to the other; or

iii) As provided in Sections 9 and/or 10.

12. Default In Other Instances.

In addition to and not in limitation of any of the other sections of this Agreement, any failure on the part of Venture or the P.C. to undertake any of their respective material obligations under this Agreement or any agreement made or entered into in connection with this Agreement shall constitute an event of default under this Agreement. Upon the occurrence of an event of default, the non-defaulting party shall have all remedies available at law and equity.

13. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of New York.

(b) Notices. Any and all notices and other communications required or permitted to be given hereunder shall be in writing and sent by overnight courier service or by certified or registered mail, return receipt requested, postage prepaid, addressed to the parties respective last known addresses and shall be deemed given when deposited in the mail as described herein.

(c) Further Instruments. At any time and from time to time, each party shall, without further consideration and at its own expense, take such further actions and execute and deliver such further instruments as may be reasonably necessary to effectuate the purposes of this Agreement.

(d) Entire Understanding. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may only be modified by a written instrument duly executed by both parties.

(e) Severability. The provisions of this Agreement are severable and if any provision hereof is invalid, illegal or unenforceable, the balance of this Agreement shall remain in effect.

(f) Force Majeure. If either party's ability to perform its obligations hereunder is limited or prevented in whole or in part for any reason whatever not reasonably within the control of the party, including, without limitation, acts of God, war, invasion, acts of foreign enemy, hostilities (whether war be declared or not), strikes and/or industrial dispute, delay on the part of the suppliers, transportation delay, or by any law, regulation, order, or other action by any public authority, that party, without liability of any kind, shall be excused, discharged, and released from performance to the extent such performance is limited, delayed or prevented.

(g) Waiver of Breach. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement or of any succeeding breach.

(h) Captions. The captions in this Agreement are solely for convenience of reference and shall be given no effect in the construction or interpretation hereof.

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

BY: _____
_____, P.C.

By: _____

Agreed to and Accepted By:

EXHIBIT "A"

MONTHLY FEE

supplies Cost plus % of cost*
managerial and
 billing services \$ _____/month
support personnel
 at Office** \$ Actual Cost

* Exclusive of all applicable sales taxes, which shall be paid by the P.C.

** In accordance with Section 1(iv) hereof, Venture shall supply (or cause to be supplied) all clerical personnel providing services at the Office. Initially, this shall consist of _____ FTEs. The P.C. shall reimburse Venture for the direct cost of salary and benefits associated with such individuals. Venture shall provide (or cause to be provided) all reasonably requested supporting documentation with respect to such costs. Venture acknowledges that such expenses are to be paid as a direct pass-through of costs, without the addition of any surcharge premium, or profit. If any such services are provided on a part-time basis, such costs shall be pro-rated.

EXHIBIT "B"

MONTHLY MINIMUM RETENTION AMOUNT

1. Physician Costs \$_____ plus actual amounts payable to _____ physicians engaged to provide interpretations of _____.

2. Technician Costs Actual salary/benefit costs incurred by P.C. for technician services (pursuant to its agreement with _____, P.C. dated of even date herewith (the "Radiologic Agreement").

3. Equipment Costs Actual costs incurred by the P.C. in connection with its use of the _____ Unit under the Radiologic Agreement.

