TERMS AND CONDITIONS
FOR THE SALE OF SIX MONTH SMILES’® PRODUCTS AND SERVICES

Last Modified: January 1, 2017

THIS DOCUMENT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS AND EXCLUSIONS THAT APPLY TO YOU. PLEASE READ IT CAREFULLY.

THESE TERMS AND CONDITIONS ( THESE “TERMS”) APPLY TO THE PURCHASE AND SALE OF SIX MONTH SMILES’ PRODUCTS AND SERVICES, INCLUDING SALES MADE THROUGH OUR WEBSITE http://www.6monthsmdles.com ( THE “SITE”). BY PLACING AN ORDER FOR OUR PRODUCTS OR SERVICES OR BY CLICKING TO ACCEPT OR AGREE TO THESE TERMS WHEN THIS OPTION IS MADE AVAILABLE TO YOU ON OUR SITE, YOU ACCEPT AND ARE BOUND BY THESE TERMS. THESE TERMS ARE ENTERED BY AND BETWEEN YOU (“DOCTOR” OR YOU”) AND SIX MONTH SMILES, LLC (“SIX MONTH SMILES”).

YOU MAY NOT ORDER OR OBTAIN PRODUCTS OR SERVICES FROM SIX MONTH SMILES IF YOU (A) DO NOT AGREE TO THESE TERMS, OR (B) TO THE EXTENT YOU ARE PURCHASING PRODUCTS OR SERVICES FROM OUR SITE, ARE PROHIBITED FROM ACCESSING OR USING THE SITE OR ANY OF THE SITE’S CONTENTS, PRODUCTS OR SERVICES BY APPLICABLE LAW.

THESE TERMS ARE SUBJECT TO CHANGE WITHOUT PRIOR WRITTEN NOTICE AT ANY TIME, IN OUR SOLE DISCRETION. THE LATEST VERSION OF THESE TERMS WILL BE POSTED ON OUR SITE, AND YOU SHOULD REVIEW THESE TERMS PRIOR TO PURCHASING ANY PRODUCT OR SERVICES.

1) INTRODUCTION AND SERVICES

Six Month Smiles has developed an approach to short term orthodontic treatment using fixed braces and tooth colored wires. Six Month Smiles has taken the best aspects of braces and modified the treatment and the materials to give adults a common-sense, cosmetic solution that fits their lifestyle.

Six Month Smiles seminars train doctors, primarily general dentists, to help their patients and grow their practice through the offering of cosmetic short term orthodontic solutions utilizing the Six Month Smiles Patient Tray Kit, which includes a custom indirect bonding tray specially produced to the dentist’s specifications and the patient’s desired outcomes, as well as the supplies needed to perform the treatment from beginning to end. Set forth below is a description of Six Month Smiles products and services:

a) PATIENT TRAY KITS
The standard Patient Tray Kit is fabricated based on the standard Six Month Smiles bracket placement protocols. Modifications as requested by Doctor on the Six Month Smiles online script will be included to the degree possible given patient anatomy and based on the quality of impressions (PVS or digital) provided by Doctor. Deviations from protocol or from the provided script will be documented and provided to Doctor with the completed Patient Tray Kit. A standard Patient Tray Kit does not include a treatment plan other than that which Doctor has created for his/her own use in treating the patient.

b) **CONFIDEX™ TREATMENT PLANNING**

CONFIDEX™ is a computerized approximation of desired tooth movement for a specific patient, prepared by a specially trained orthodontist. CONFIDEX™ software results are simulated approximations based on the approved CONFIDEX™ treatment plan and actual clinical results may vary. Doctor must review the CONFIDEX™ treatment plans thoroughly. Doctor’s approval of the customized CONFIDEX™ treatment plan is considered a prescription to Six Month Smiles and Six Month Smiles’ final authorization to manufacture the Patient Tray Kit. Six Month Smiles recommends that Doctor delays extraction of any teeth until after approval of the CONFIDEX™ treatment plan, if medically feasible. CONFIDEX includes each of the following:

Photo: Photo simulations are a computer generated-simulated image of the proposed final alignment of the teeth and not a guarantee of the treatment outcome. The actual results of treatment may differ from the photo simulation.

3D Video: The CONFIDEX treatment video is an animated 3D representation of the patient’s proposed treatment plan and projected outcome. It is a tool to be used by Doctor as part of Doctor’s complete diagnosis and treatment of the patient. Results that may be achieved by using a portion or all of the CONFIDEX treatment plan will depend on Doctor’s own examination and diagnosis of the particulars of the individual case.

c) **SEMINARS**

Unless otherwise agreed to by Six Month Smiles, Six Month Smiles’ treatment options and Patient Tray Kits are only available to currently licensed dentists and orthodontists who have attended a Six Month Smiles Level I Training course within the prior 24 months or who have attended a Six Month Smiles Training course more than 24 months ago and have submitted a certain level of treatments within the prior 24 months. Six Month Smiles treatment options are only available to dentists and orthodontists that have maintained their good customer standing with Six Month Smiles.

d) **CONTINUING EDUCATION**

Six Month Smiles is designated as an Approved PACE Program Provider by the Academy of General Dentistry. The formal continuing dental education programs of Six Month Smiles are accepted by the AGD for Fellowship, Mastership, and membership maintenance credit. Approval does not imply acceptance by a state or provincial board of dentistry of AGD
endorsement. The current term of approval and Provider ID information are available upon request by emailing customercare@sixmonthsmiles.com.

2) FORUM AND THIRD PARTY SERVICES

If Doctor requires further guidance and support for treating a case or selecting possible Six Month Smiles cases, services are available through independent third parties, including Six Month Smiles Clinical Instructors and Mentors via the Six Month Smiles Forum (the “Forum”). If third party treatment planning services are used, the sharing of any records or medical information must adhere to, and it is Doctor’s responsibility to ensure compliance with, relevant state and federal laws and regulations, including the Health Insurance Portability and Accountability Act of 1996, and all amendments thereto.

Six Month Smiles assumes no liability or responsibility for treatment plans developed with a third party or the associated outcome of such third party treatment planning services. Additionally, Six Month Smiles makes no warranty, guarantee, or representation as to the accuracy or sufficiency of the information or advice posted in the Forum, and Six Month Smiles assumes no responsibility or liability regarding the use or misuse of such information or advice. Any advice, pertaining to patient treatment or otherwise, given by a Clinical Instructor or Mentor is the personal opinion of that Clinical Instructor or Mentor and has not been reviewed, confirmed, or approved by Six Month Smiles. It is Doctor’s responsibility to ensure that information or advice obtained through the Forum is correct, proper, and suitable either in general or for a particular patient. Six Month Smiles does not make any representations regarding the level of experience, competency, expertise, or qualifications of Clinical Instructor or Mentor who posts information or advice on the Forum and Six Month Smiles presents such information and advice only as a convenience to users of the Forum.

3) PAYMENT

Doctor shall purchase the products and services from Six Month Smiles at the prices set forth in the applicable purchase order. All prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Doctor. Doctor shall be responsible for all such charges, costs and taxes; provided, that, Doctor shall not be responsible for any taxes imposed on, or with respect to, Six Month Smiles’ income, revenues, gross receipts, personnel or real or personal property or other assets. Additional fees may apply if a shipping method is requested other than Six Month Smiles’ standard shipping procedure.

Unless otherwise agreed to by Six Month Smiles, Doctor shall pay Six Month Smiles for all products using a credit card at the time of purchase, and Doctor must maintain a valid and current credit card on file for purposes of payment. If Six Month Smiles separately agrees with Doctor for extended billing terms, Doctor will receive invoices in paper and/or electronic format depending on the preferences communicated to Six Month Smiles. The invoice date is the day the Patient Tray Kit or other product is shipped to Doctor and payment will be due on the date indicated on the invoice. Late payments may result in delays to future shipments, or in extreme delinquencies, collection activities.
Doctor shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Doctor shall reimburse Six Month Smiles for all costs incurred in collecting any late payments, including, without limitation, attorneys’ fees. In addition to all other remedies available under these Terms or at law (which Six Month Smiles does not waive by the exercise of any rights hereunder), Six Month Smiles shall be entitled to suspend the delivery of any products if Doctor fails to pay any amounts when due hereunder and such failure continues for ten (10) days following written notice thereof.

Six Month Smiles does not accept payments from patients, including payments in the patient’s name forwarded by Doctor. When Doctor approves a CONFIDEX™ treatment plan or submits an order for a Patient Tray Kit, Doctor is the party responsible for payment to Six Month Smiles. Prices and other terms and conditions are subject to change by Six Month Smiles without prior notice (but will not be varied with respect to a particular order once such order has been placed).

4) CANCELLATIONS

a) Seminars

For all courses offered, the following cancellation policy applies:

If the cancellation notice is received by Six Month Smiles at least two (2) weeks prior to the course beginning, Doctor will receive a refund of all fees paid less a $1,000 USD cancellation fee. The $1,000 USD cancellation fee can be applied to a future course within one (1) year of cancellation. Cancellations received less than two (2) weeks prior to the start of the course are not eligible for refunds, credits or transfers and none will be issued.

On rare occasions, air traffic delay or poor weather could affect the start time of a seminar or force Six Month Smiles to cancel the seminar. If Six Month Smiles is able to start the course by 1:00 PM local time on the first day of the course, there is no refund, and all topics will be covered in full. In the event the course is not able to start by 1:00 PM local time, the course will be condensed into a one (1) day program to be held on the second day of the course, and Six Month Smiles will provide a refund of up to $1,000 of the course fee paid by Doctor. If both days of the course are cancelled, full tuition paid will be applied to a future course date or will be refunded in full upon written request from Doctor, up to the amount paid.

Six Month Smiles will allow a transfer of the initially selected course date and location up until two (2) weeks prior to the first day of the scheduled course. No transfers will be accepted less than two (2) weeks prior to the start of a course. Failure to utilize the transfer within one (1) year from the original transfer date will result in the loss of all funds paid.

b) Patient Tray Kits and CONFIDEX™ Treatment Plans

For Patient Tray Kits, once an order has been placed by Doctor using the Six Month Smiles’ online order system, or other acceptable means at the discretion of Six Month Smiles, the order
is considered binding. Six Month Smiles will accept cancellation of an order via verbal confirmation from Doctor with cancellation fees as follows, depending on the status of production:

   i) No cancellation fee will apply provided there has been no production action taken.
   ii) A $100.00 cancellation fee applies if the impressions have been poured and a model produced, but no indirect bonding tray has been fabricated.
   iii) Full price will be charged for cancellation after production of the Patient Tray Kit has been completed, meaning the indirect bonding trays have been fabricated.
   iv) For a CONFIDEX Patient Tray Kit, if Doctor cancels after the treatment plan has been prepared and before the Doctor approves the treatment plan, a cancellation fee of $200.00 will be applied.

Additional charges for inbound shipping may be applied and due upon cancellation in all scenarios above.

Upon Doctor’s approval of the CONFIDEX™ treatment plan, all charges are non-refundable and any cancellation of the binding order will incur the full applicable charges. Orders are subject to Six Month Smiles’ pricing as of the order receipt date, defined as the date and time Doctor submits the completed order.

An order will be cancelled and a cancellation fee will be applied upon the first of the following to occur: (1) an order is cancelled by Doctor at any time after Patient Tray Kit submission and prior to CONFIDEX™ treatment plan approval, or (2) the order has aged longer than 20 calendar days from the due date to one or more of the missing requirements (i.e., valid payment form, prescription form, missing or unacceptable impression(s), intra-oral scan(s) or photos), or (3) a CONFIDEX™ treatment plan is not approved within 20 calendar days from the first CONFIDEX™ treatment plan posting. The cancellation fee is immediately due from Doctor and may be charged to the credit card on file, the provision of which constitutes approval to charge amounts due and owing to Six Month Smiles.

5) SHIPPING

Patient Tray Kits are manufactured and will be shipped to Doctor within approximately ten (10) business days of receipt of the impressions or approval of the CONFIDEX™ treatment plan if elected. Six Month Smiles will make reasonable efforts to contact Doctor within four (4) days of order receipt if the order submission is not complete or all materials are not received. Incomplete order submissions will result in delays in manufacturing and shipping of products. Doctor is deemed to have taken possession of shipped products immediately when they leave the control of Six Month Smiles, and Doctor assumes all responsibility for damage to products in transit. Upon shipment, all Patient Tray Kits or retainers are non-returnable and fees non-refundable (other than where such items are damaged or defective due to a fault in manufacturing or handling by Six Month Smiles).

6) RECORDS
Doctor is responsible for securing all consent from patients required by law in order for records to be disclosed to Six Month Smiles in accordance with these Terms. For the avoidance of doubt, such consent should include approval for transmission of records to a jurisdiction outside of the United States.

Six Month Smiles will comply with the applicable requirements of relevant laws, which may include obligations to provide personal information that Six Month Smiles holds about a patient to such patient on request by such patient.

Subject to applicable law, records submitted to Six Month Smiles become the property of Six Month Smiles and will not be returned to Doctor. Records such as impressions and intra-oral scans require inspection, and Six Month Smiles may deem such records unacceptable. If deemed unacceptable, Six Month Smiles may request replacement records. Six Month Smiles will maintain physical materials such as impressions and study models only for a short time period, until they are discarded and/or archived at the discretion of Six Month Smiles.

Subject to applicable law, Doctor authorizes Six Month Smiles to use records, including but not limited to, impressions and intra-oral scans, patient information, radiographs (x-rays), photographs and plaster or stone models for internal use, purposes of orthodontic or dental consultations, education and research purposes, publication in professional journals or use in professional collateral materials, provided such use does not include disclosure of a specific name, patient ID, address, or other personal information that would have the effect of specifically identifying Doctor or the patient, unless the appropriate consents are obtained.

7) PATIENT TRAY KIT AND ANCILLARY PRODUCTS LIMITED WARRANTY

Each party acknowledges that local, state and federal laws may imply certain conditions and warranties into these Terms and confer certain rights and remedies on Doctor that cannot be excluded or modified (“Rights”). Nothing in this Section or otherwise in these Terms excludes or modifies any of those rights if to do so would contravene such rights or make any part of these Terms void.

SIX MONTH SMILES WARRANTS THAT ALL PATIENT TRAY KITS AND THEIR CONTENTS, RETAINERS, TOOLS AND ANCILLARY SUPPLIES ARE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP WHEN USED PROPERLY IN THE APPLICATIONS FOR WHICH THEY WERE INTENDED. FOR PATIENT TRAY KITS AND INDIRECT BONDING TRAYS, THIS WARRANTY EXPIRES ON THE TREATMENT EXPIRATION DATE. FOR RETAINERS, THIS WARRANTY EXPIRES THREE (3) MONTHS AFTER SHIPMENT OF THE RETAINERS.

EXCEPT AS PROVIDED IN THIS SECTION, SIX MONTH SMILES MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO SIX MONTH SMILES TREATMENT OPTIONS AND/OR PRODUCTS OR SERVICES OR THE OUTCOME OF TREATMENT WITH SUCH TREATMENT OPTIONS AND/OR PRODUCTS OR SERVICE. SIX MONTHS SMILES SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF DESIGN,
MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT AND ANY OTHER IMPLIED WARRANTIES.

Where Six Month Smiles (i) cannot exclude any express or implied condition or warranty or Rights, or (ii) the Patient Tray Kit fails to conform to the warranty in this Section, then Six Month Smiles’ sole and exclusive liability (other than in circumstances where by law, liability cannot be limited) and Doctor’s sole and exclusive remedy is, at the sole discretion of Six Month Smiles, (a) to repair or replace the products or (b) to pay the cost of having those products repaired or replaced.

No representative, employee or agent of Six Month Smiles is authorized to incur warranty obligations on behalf of Six Month Smiles or modify the limitations set forth herein.

THESE WARRANTIES ARE VOID IF THE PATIENT TRAY KIT, RETAINERS, OR OTHER PRODUCTS OR SERVICES HAVE BEEN MISUSED, MODIFIED OR HAVE BEEN USED IN COMBINATION WITH OTHER THIRD PARTY PRODUCTS. NO WARRANTY IS MADE REGARDING THE OUTCOME OF ANY TREATMENT USING THE PRODUCTS OR ANY COMBINATION OF SIX MONTH SMILES PRODUCTS OR SERVICES WITH THIRD PARTY PRODUCTS.

Returns, complaints, or other feedback on Six Month Smiles products or services should be directed to the Customer Experience Department at 1-866-957-7645 or customercare@sixmonthsmiles.com for authorization to return for inspection and determination of replacement.

8) DOCTOR REPRESENTATIONS AND WARRANTIES

Doctor represents, warrants and covenants to Six Month Smiles that:

i) Doctor is licensed to practice dentistry and/or orthodontia in the location of and at the time treatment is provided. Doctor will not use Six Month Smiles treatment options and/or products if such license expires, is not valid, is revoked, suspended or otherwise jeopardized at any time during treatment with Six Month Smiles products;

ii) Doctor’s use of Six Month Smiles treatment products and services will be in accordance with generally accepted business or medical standards and shall comply with Six Month Smiles’ product and service specifications;

iii) Doctor has expertise, experience and training to perform procedures associated or in conjunction with short term orthodontic treatment;

iv) Any use of Six Month Smiles’ trademarks by Doctor will be only in connection with Doctor’s provision of Six Month Smiles products and will comply with the Six Month Smiles art and advertising standards as further set forth in these Terms below. Any use of Six Month Smiles’ trademarks or imagery should be sent to customercare@sixmonthsmiles.com not less than ten (10) business days prior to
publication or production and not be used without Six Month Smiles’ express written permission on behalf Six Month Smiles;

v) Doctor takes full responsibility and is directly and solely liable for using information obtained from the use of Six Month Smiles products in the treatment of patients, including but not limited to, achieving a desired outcome or the decision to move forward with treatment;

vi) Doctor will regularly review the Six Month Smiles doctor site (Doctor Resource Center) to verify that Doctor is aware of any changes to terms and conditions for Six Month Smiles, and to Six Month Smiles’ advertising standards; and

vii) Subject to applicable law, Doctor will provide, upon request, feedback regarding the status of a patient’s treatment and the success of the Six Month Smiles service or product, and Six Month Smiles may use such information for promotional, education or other publication purposes.

9) DOCTOR RESPONSIBILITY AND PRODUCT USAGE

Six Month Smiles is not a provider of medical, dental or health care services and does not and cannot practice medicine, dentistry or give medical advice. Six Month Smiles offers services containing factual advice and documentation for use by Doctor in creating or evaluating the effectiveness of a proposed CONFIDEX™ treatment plan and/or use of a Patient Tray Kit. The services are not a substitute for dental or medical advice, and Doctor has the sole responsibility for evaluating whether a CONFIDEX™ treatment plan is appropriate for a specific patient. Following CONFIDEX™ digital treatment planning guidance does not guarantee a successful or safe outcome. Individual results may vary and conditions may become apparent that warrant additional or alternative treatment that deviate from the CONFIDEX™ treatment plan. In some cases, additional dental procedures may be necessary to complete treatment. Six Month Smiles does not make any guarantees or assurances concerning the outcome of any treatment and assumes no liability or responsibility for CONFIDEX™ treatment plans. It is Doctor’s responsibility to adhere to relevant state, national, and local laws and regulations and any professional obligations regarding patient care or otherwise.

In certain, but rare, circumstances, Six Month Smiles may not be able to adhere to the specifications of a CONFIDEX treatment guidance plan or Doctor prescription. In those situations, Six Month Smiles will not initiate, edit or modify a patient’s CONFIDEX™ treatment guidance plan nor modify Doctor’s prescription unless otherwise noted by Six Month Smiles on a Lab Deviation Form, which will be returned to Doctor with the completed case.

Six Month Smiles may, from time to time, provide information or recommendations to Doctor or Doctor’s personnel; however, Six Month Smiles will not control or pressure Doctor in the exercise of Doctor’s professional judgment. Decisions about treatment of a patient are to be made by Doctor, and Doctor is solely responsible for review and approval of CONFIDEX™ treatment plans to determine whether Six Month Smiles products and/or treatment options are appropriate for a specific patient, use or application, diagnosis and/or treatment of each patient, and the resulting
outcome. Some Six Month Smiles products and/or treatment options offerings incorporate default or preset treatment staging protocols, which are accepted by the Doctor as part of Doctor’s prescription when submitting an order to which these protocols apply. Information about treatment staging protocols can be accessed via the Six Month Smiles doctor site at time of order submission. It is within Doctor’s sole discretion to implement any of Six Month Smiles’ recommendations, including but not limited to proceeding with order submission. Each order is subject to acceptance by Six Month Smiles, and will become a binding contract only if accepted by Six Month Smiles.

10) GENERAL RISKS

Six Month Smiles recommends that Doctor confirm that each patient is dentally and periodontally stable prior to the start of treatment. The use of Six Month Smiles product(s) or service(s) may involve some of the risks detailed below. Please note, many of the risks are general (for example, health and hygiene related risks) and can occur without any orthodontic treatment or are risks that are associated with other traditional orthodontic treatments:

i) Failure to use the products as directed by doctor, missing appointments, and erupting or atypically shaped teeth can lengthen the treatment time and affect the ability to achieve the desired results;

ii) Dental tenderness may be experienced after wire adjustments or changes to elastics and other ancillary products;

iii) Gums, cheeks and lips may be scratched or irritated;

iv) Teeth may shift position after treatment. Consistent wearing of retainers at the end of treatment helps to reduce this tendency;

v) Tooth decay, periodontal disease, inflammation of the gums or permanent markings (e.g. decalcification) may occur if patients consume foods or beverages containing sugar, do not brush and floss their teeth properly while wearing the Six Month Smiles products, or do not use proper oral hygiene and preventative maintenance;

vi) The brackets and ancillary products may temporarily affect speech and may result in a lisp, although any speech impediment should disappear within one or two weeks;

vii) Orthodontic appliances may cause a temporary increase in salivation or mouth dryness and certain medications can heighten this effect;

viii) Attachments may be bonded to one or more teeth during the course of treatment to facilitate tooth movement and/or appliance retention. These will be removed after treatment is completed;

ix) Attachments may fall off and require replacement;
x) Teeth may require interproximal recontouring or slenderizing in order to create space needed for dental alignment to occur;

xi) The bite may change throughout the course of treatment and may result in temporary patient discomfort;

xii) At the end of orthodontic treatment, the bite may require adjustment (“occlusal adjustment”);

xiii) Atypically shaped, erupting and/or missing teeth may affect bracket placement and may affect the ability to achieve the desired results;

xiv) Treatment of severe open bite, severe overjet, mixed dentition, and/or skeletally narrow jaw may require supplemental treatment in addition to Six Month Smiles treatment;

xv) Supplemental orthodontic treatment, including the use of bonded buttons, orthodontic elastics, auxiliary appliances/dental devices (e.g. temporary anchorage devices, sectional fixed appliances), and/or restorative dental procedures may be needed for more complicated treatment plans where brackets and wires alone may not be adequate to achieve the desired outcome;

xvi) Teeth which have been overlapped for long periods of time may be missing the gingival tissue below the interproximal contact once the teeth are aligned, leading to the appearance of a “black triangle” space;

xvii) Orthodontic brackets are not effective in the movement of dental implants;

xviii) General medical conditions and/or use of medications can affect orthodontic treatment;

xix) Health of the bone and gums which support the teeth may be impaired or aggravated;

xx) Oral surgery may be necessary to correct crowding or severe jaw imbalances that are present prior to wearing the Six Month Smiles product. If oral surgery is required, risks associated with anesthesia and proper healing must be taken into account prior to treatment;

xxi) A tooth that has been previously traumatized or significantly restored may be aggravated. In rare instances the useful life of the tooth may be reduced, the tooth may require additional dental treatment such as endodontic and/or additional restorative work and the tooth may be lost;

xxii) Existing dental restorations (e.g. crowns) may become dislodged and require re-cementation or in some instances, replacement;
xxiii) Short clinical crowns can pose appliance retention issues and inhibit tooth movement;

xxiv) The length of the roots of the teeth may be shortened during orthodontic treatment and may become a threat to the useful life of teeth;

xxv) Product breakage or bracket de-bonding is more likely in patients with severe crowding and/or multiple missing teeth;

xxvi) Orthodontic appliances or parts thereof may be accidentally swallowed or aspirated;

xxvii) In rare instances, problems may also occur in the jaw joint, causing joint pain, headaches or ear problems;

xxviii) Allergic reactions may occur; and

xxix) In rare instances, patients with hereditary angioedema (Hae), a genetic disorder, may experience rapid local swelling of subcutaneous tissues including the larynx. Hae may be triggered by mild stimuli including dental procedures.

11) INCORPORATION OF AUXILIARY TECHNIQUES

The outcome of the following movements are less predictable than other movements; however, doctors experienced with the Six Month Smiles treatment options and/or product(s) are finding an increased degree of success with these movements, and many doctors have incorporated simple auxiliary techniques to help achieve the desired outcome by using supplemental buttons, elastics or other auxiliary appliances in combination with the Patient Tray Kit materials:

i) Severe de-rotations of cylindrically shaped teeth;

ii) Complex extrusions (particularly of posterior, high canines)

Doctor is responsible for the treatment outcome and any additional costs of auxiliary treatment used to achieve a desired outcome with the Six Month Smiles treatment options and/or products.

12) LIABILITY

OTHER THAN LIABILITY REFERRED TO IN THE FOLLOWING PARAGRAPH, IN NO EVENT WILL SIX MONTH SMILES TOTAL CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS UNDER ANY THEORY OF LAW EXCEED THE SUM OF FEES PAID OR PAYABLE BY DOCTOR FOR SUCH SIX MONTH SMILES PRODUCT OR SERVICES. THE EXISTENCE OF ONE OR MORE CLAIMS SHALL NOT EXPAND SUCH LIMIT. IN NO EVENT WILL SIX MONTH SMILES, ITS LICENSORS OR SUPPLIERS BE LIABLE TO DOCTOR OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES HOWEVER
CAUSED AND UNDER ANY THEORY OF LIABILITY WHETHER IN CONTRACT, TORT, INDEMNITY OR OTHER CAUSE OR THEORY WHATSOEVER (INCLUDING NEGLIGENCE, DELAY IN DELIVERY, INJURY TO REPUTATION, GOOD WILL, ETC.), WHETHER OR NOT SIX MONTH SMILES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT WILL SIX MONTH SMILES, OR ANY OF ITS LICENSORS OR SUPPLIERS HAVE ANY LIABILITY FOR ANY LOST PROFITS, LOSS OF DATA, LOSS OF USE OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES.

The following claims against Six Month Smiles and its employees, agents, contractors, officers or directors are hereby waived by Doctor: (i) claims based on the failure of Six Month Smiles products to achieve a successful or desirable outcome; and (ii) injury to a patient, either alone or in combination with other treatment appliances.

13) INDEMNIFICATION

Doctor agrees to indemnify, defend and hold harmless Six Month Smiles and its past, present and future officers, directors, members, employees, agents, assigns, attorneys, contractors, service providers, licensors, insurers and successors in interest against and from any and all claims, causes of action, damages, injuries, debts, liabilities, losses, obligations, payments, costs, expenses, demands, and other requests for relief, compensation or remuneration of any kind, description or nature whatsoever (collectively, “losses”), related to, pertaining to or arising from:

i) Doctor’s breach of or failure to abide by any term of these Terms;

ii) Any incorrect information provided to Six Month Smiles or any failure to timely provide Six Month Smiles with any information it requests from Doctor or Doctor’s dental practice; or

iii) Six Month Smiles’ provision of or failure to provide products or services to Doctor, unless such provision of or failure to provide such products or services was due to Six Month Smiles’ negligence or recklessness.

14) CONFIDENTIAL INFORMATION AND PRIVACY

All non-public, confidential or proprietary information of Six Month Smiles, including but not limited to specifications, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Six Month Smiles to Doctor, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as “confidential” in connection with these Terms is confidential, solely for the use of performing these Terms and may not be disclosed or copied unless authorized in advance by Six Month Smiles in writing. Upon Six Month Smiles’ request, Doctor shall promptly return all documents and other materials received from Six Month Smiles. Six Month Smiles will be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Doctor at the time of disclosure; or (c) rightfully obtained by Doctor on a non-confidential basis from a third party.
The Privacy Policy of Six Month Smiles, available at http://www.6monthsmiles.com/pages/privacy_policy.aspx, governs the processing of all personal data collected from Doctor in connection with Doctor’s purchase of products or services from Six Month Smiles.

15) TRADEMARK USAGE

Subject to these Terms, Six Month Smiles grants to Doctor limited and personal (non-transferable or sub-licensable) permission to use the Six Month Smiles trademark and certain other Six Month Smiles trademarks identified and approved for use in marketing Six Month Smiles products and/or services. Six Month Smiles’ trademarks may be used by Doctor only in connection with Doctor’s provision of Six Month Smiles products. Any use of Six Month Smiles’ trademarks by Doctor and any associated goodwill inures to the benefit of Six Month Smiles, and Doctor acknowledges that Six Month Smiles remains the sole owner of all right, title and interest in the Six Month Smiles trademarks. Six Month Smiles has the right to monitor the quality of Doctor’s services provided in connection with Six Month Smiles trademarks and may, in Six Month Smiles’ sole discretion, terminate Doctor’s permission to use Six Month Smiles trademarks at any time.

16) MARKETING

Six Month Smiles may, but is not required, to include Doctor in co-marketing or lead generating tools such as the “Find A Dentist” web-based locator. Six Month Smiles retains sole discretion over all aspects of the “Find A Dentist” web-based locator, including but not limited to, inclusion, designations, and order of placement and removal of doctors. By the way of these Terms, Doctor authorizes Six Month Smiles to send programs, training, event, sales and marketing promotions and materials, surveys or other information related to the Six Month Smiles products to the Doctor’s office via facsimile, e-mail, and other means unless the Doctor has indicated otherwise in writing to Six Month Smiles.

17) FORCE MAJEURE

Neither party will be deemed to be in breach of these Terms for any failure or delay in performance caused by reasons beyond its reasonable control, if such party makes reasonable efforts to perform; provided, however, the inability of either party to meet financial obligations is expressly excluded.

18) GOVERNING LAW

These Terms will be governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Texas. Any legal suit, action or proceeding arising out of or related to these Terms or Six Month Smiles products and services will be instituted exclusively in the federal courts of the United States or the courts of the State of Texas, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding; provided,
however, upon the election of the parties, the parties may submit any dispute and other matter in question arising out of, or relating to these Terms or the performance thereof, to binding arbitration.

19) EXPORT

Six Month Smiles’ products and services that are purchased by Doctor under these Terms may only be used by Doctor within the country of purchase and may not be exported or re-sold. Doctor agrees to comply with all export laws, restrictions, statutes, agreements and regulations of the local government, its agencies, bureaus, and authorities. Doctor will not provide, transfer, sell or otherwise make available the product or services or related technology in violation of any such laws. The products and services are for intended use in the country where Doctor is licensed to practice and to where the product was shipped, per the request of the Doctor, by Six Month Smiles. Products and services purchased from Six Month Smiles may be controlled for export purposes by export regulations, including but not limited to, the Export Administration Act of 1979 (50 U.S.C. 2401-2410), the Export Administration Regulations promulgated thereunder (15 C.F.R. 768-799), the International Traffic in Arms Regulations (22 C.F.R. 120-128 and 130) and their successor and supplemental regulations.

20) INDEPENDENT CONTRACTORS

It is the mutual intent of the parties to these Terms that Doctor, Doctor’s employees, agents, and other representatives are not employees, agents, joint ventures, or partners of Six Month Smiles. Nothing contained in these Terms is interpreted or construed to create or establish an employment relationship between the parties. Neither party is granted any express or implied right or authority by the other party to assume or create any obligation or responsibility on behalf of or in the name of the other party, or to bind the other party in any manner whatsoever.

21) NO WAIVER

The failure of either party at any time to require performance by the other party of any provision will not affect in any way the full right to require such performance at any time thereafter.

22) SEVERABILITY

If any provision of these Terms is held by a court of competent jurisdiction to be contrary to law, such provision will be changed by the court and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of these Terms will remain in full force and effect.

23) TERMINATION AND MODIFICATION; SURVIVAL

Six Month Smiles reserves the right to cancel these Terms, refuse an order of product or revoke the certification of a Doctor for any reason at any time. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of these Terms including, but not limited to, the following Sections: Section 9 (Doctor Responsibility and Product Usage), Section 12 (Liability), Section 13 (Indemnification), Section 14 (Confidential
Information and Privacy), Section 18 (Governing Law), and Section 23 (Termination and Modification; Survival).

24) ASSIGNMENT; THIRD PARTY BENEFICIARIES

Doctor will not assign any of his/her rights or delegate any of his/her obligations under this these Terms without the prior written consent of Six Month Smiles. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Doctor of any of its obligations under these Terms are not intended to confer any rights or remedies upon any person other than Dental Practice.

25) NOTICE

All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); or (c) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section):

If to Doctor, the address provided to Six Month Smiles on Doctor’s most recent purchase order.

If to Six Month Smiles: 6270 Morning Star Drive, Suite 120
The Colony, TX 75056
Attention: President and Chief Executive Officer

26) ENTIRE AGREEMENT

These Terms, together with Six Month Smiles’ Privacy Policy and all applicable sales orders, set forth the entire agreement and understanding of the parties with respect to the subject matter covered and supersede all prior letters of intent, agreements, covenants, arrangements, communications, warranties or representations, whether oral or written, by any officer, employee, or representative of Six Month Smiles relating thereto. These Terms prevail over any conflicting or additional terms of any quote, order, invoice or other communication.