



DENTAL TREATMENT SERVICES SCHEME (DTSS)

FORM OF AGREEMENT FOR THE PROVISION OF CLINICAL DENTAL TECHNICIAN SERVICES

October 2011

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Agreement for the Provision of Dental Prosthetic Treatments by a Registered Clinical Dental Technician

This Agreement is made the _____ day of _____ 20____ between:

(1) _____ of _____
(Insert Name) (Insert Address)

(hereinafter referred to as the “Service Provider” which expression shall, where appropriate, include his employees and authorised representatives), being:

- An individual practising as a CDT

and

(2) **The Health Service Executive** having its head office at Oakhouse, Limetree Avenue, Millennium Park, Naas, Co. Kildare, Republic of Ireland (hereinafter referred to as the “HSE”, which term shall include its successors, assigns and authorised representatives).

RECITALS

- A. The object of the HSE is to use the resources available to it in the most beneficial, effective and efficient manner to improve, promote and protect the health and welfare of the public. It is required under the Health Act 2004 ("the Act") to manage and deliver, or arrange to be delivered on its behalf, health and personal social services in accordance with the Act. It has the power, subject to resources and to any directions of the Minister for Health, to enter into an arrangement with a person for the provision of a health or personal social service by that person on behalf of the HSE.
- B. The Service Provider is engaged in the provision of clinical dental technician services.
- C. Pursuant to the notice published by the HSE in [INSERT] on [DATE], the HSE wishes to enter into an agreement with the Service Provider for the provision of certain dental prosthetic treatments in accordance with the terms and conditions of this Agreement.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. Definitions and Interpretation

“Application Form” means the application form for the provision of Clinical Dental Technician Services under the Dental Treatment Services Scheme submitted by the Service Provider to the HSE;

“Applicable Data Protection Legislation” shall have the meaning given to it in Clause 13 of this Agreement.

“CDT” means a Clinical Dental Technician who has been entered on the register of Clinical Dental Technicians maintained by the Irish Dental Council.

“CDTS” means the Clinical Dental Technician Scheme established by the Irish Dental Council with the consent of the Minister pursuant to Section 53 of the Dentists Act 1985.

“CDT Ethics and Conduct Documents” means the Irish Dental Council’s *“Ethics and Conduct for Clinical Dental Technicians”* and any other such documents that may be issued by the Irish Dental Council from time to time.

“Clinical Audit” means a process that uses systematic assessment of performance against defined standards resulting in continuous improvement in the provision of the Services.

“Dental Claim Form” means the claim form submitted by the Service Provider to the HSE in accordance with Clause 4.3.1 of Schedule 4 and Clause 5.4 of Schedule 5.

“Denture Repairs and Additions” shall have the meaning given to it in Clause 3.1 of Schedule 3.

“DTSS” means the dental treatment services scheme established by the Minister for Health for the provision of dental treatment to eligible persons under the Health Acts.

“Eligible Person” means a person aged 18 years or over who is entitled to receive dental prosthetic treatments under the Health Acts and any other person or groups as may be determined by the Minister or HSE from time to time.

“Fees” means the fees payable to the Service Provider for the provision of the Services as set out in Schedule 4.

“Health Acts” means the Health Acts 1947 to 2008, as amended.

“HIQA” means the Health Information and Quality Authority established pursuant to the Health Act 2007;

HSE Designated Manager means the employee of the HSE to whom functions relating to this Agreement have been delegated or sub-delegated in accordance with section 19 of the Health Act, 2004

“ICT” shall have the meaning given to it in Clause 6.13 of Schedule 6;

“Intellectual Property Rights” means patents, copyright, registered and unregistered design rights, utility models, trade marks (whether or not registered), database rights, rights in know-how and confidential information and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of any country, and all rights to apply for or register such rights;

“Irish Dental Council” means the Dental Council established in accordance with the provisions of the [Dentists Act 1985](#);

“Irish Medicines Board” means the board established pursuant to the Irish Medicines Board Act 1995 with responsibility for the licensing of, manufacture, preparation, importation, distribution and sale of medicinal products.

“Member State” means a state which is a member of the European Union.

“Minister” means the Minister for Health.

“Oral Inspection” means an inspection carried out by the Service Provider in accordance with the provisions of the Clinical Dental Technician Scheme (CDTS) to confirm that the eligible patient’s oral tissues are healthy. In the case of a dentate patient the Service Provider must be satisfied that the eligible patient has established oral health through recent attendance with a registered Dental Practitioner.

“Panel” means the list of all individuals who are engaged in the provision of the Services pursuant to an agreement with the HSE.

“Patient” means a person to whom the Service Provider is providing the Services under the Agreement.

“Patient Care Plan” means the plan developed for the treatment of each individual patient.

“PCRS” means the Primary Care Reimbursement Service of the HSE, which has responsibility for processing Fees claimed by Service Providers in accordance with the terms and conditions of the Agreement.

“Premises” means any address specified in Schedule 1 of the Agreement as one at which the Services are to be provided under the Agreement and any other address approved by the HSE in accordance with Clause 5 of the Agreement.

“Records” shall have the meaning given to it in Clause 10.1 of the Agreement.

“Relevant Body” means the Irish Dental Council, the Health and Safety Authority, HIQA and such other bodies as may be recognised by the HSE from time to time.

“Staff” means all persons (including, without limitation, CDTs, employees, agents and independent contractors) involved in the provision of the Services in accordance with this Agreement;

“The Services” means Oral Inspections, Denture Repairs and Additions and the Treatments and all other obligations on the Service Provider under the terms of the Agreement.

“Service Provider” means a registered Clinical Dental Technician who has entered in to an agreement with the HSE for the provision of Dental Prosthetic Treatments to an eligible person.

“Treatments” means any of the treatments listed in Clause 3.2 of Schedule 3 which the Service Provider shall make available to Eligible Persons in accordance with the provisions of this Agreement.

- 1.1. Save as otherwise provided herein, references to clauses and schedules are to those contained in this Agreement. The schedules form an integral part of this Agreement and reference to this Agreement includes reference thereto. Headings are inserted for convenience only and do not affect the construction of this Agreement.
- 1.2. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- 1.3. Words importing individuals may also include reference to incorporated and unincorporated associations and vice versa.
- 1.4. Words importing the masculine gender shall include the feminine gender and vice versa.
- 1.5. References to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or replaced by any subsequent enactment, modification, order, regulation or instrument. References to any statute, enactment, order, regulation or other similar instrument shall include reference to any regulations made thereunder.
- 1.6. This Agreement shall be subject to the provisions of any legislation or regulations having an effect on the provision of the Clinical Dental Technician Scheme (CDTS) pursuant to this Agreement which may be enacted from time to time.
- 1.7. Any performance and compliance obligations imposed on the parties include the obligation to meet such obligations at their own cost.
- 1.8. Any obligation on the parties to keep records, data or information includes the obligation to keep them up to date and accessible.
- 1.9. Any obligation on the Service Provider to have systems, procedures or controls includes the obligation to effectively operate them.

2. Service Provider's Obligations

- 2.1. In consideration of being appointed to the Panel and being paid the Fees, the Service Provider shall provide the Services in accordance with the terms and conditions of the Agreement.
- 2.2. Without prejudice to the generality of the foregoing, the Service Provider shall and shall procure that his Staff shall, in the provision of the Services, exercise due diligence and comply fully with the CDTS, the CDT Ethics and Conduct Documents, appropriate professional standards as determined by the Irish Dental Council from time to time, all applicable legislation (and all regulations and orders made under such legislation) and all reasonable directions including Standard Operating Procedures issued by the HSE from time to time.
- 2.3. The Service Provider shall at all times adhere to the scope of practice for Clinical Dental Technicians as defined by the Irish Dental Council.

- 2.4. The Services shall at all times be provided in the same manner and to the same standard as such services would be provided to any private patient.
- 2.5. Under no circumstances shall the Service Provider permit the Services to be provided by any party other than by a CDT named in Schedule 2 of the Agreement or by a CDT who has been approved by the HSE in accordance with Clause 5 of the Agreement.
- 2.6. The Service Provider shall give the HSE three (3) months notice in writing of his intention to terminate the Agreement in accordance with Clause 8.3 of Schedule 8.

3. Approved Premises

- 3.1. The HSE hereby approves the provision of the Services by the Service Provider at the Premises listed in Schedule 2 (as may be amended from time to time in accordance with Clause 5 of the Agreement).

4. Persons who Perform the Services

- 4.1. The Services to be provided under the Agreement must be performed by a CDT approved by the HSE and listed in Schedule 2 (which list may be amended from time to time in accordance with Clause 5 of the Agreement).
- 4.2. The Service Provider shall provide the HSE with such details as the HSE may request at time to time in respect of any CDT providing the Services under the Agreement.
- 4.3. The Service Provider shall ensure that all of the provisions of Clause 6.8 of Schedule 6 are satisfied in respect of each CDT approved by the HSE to provide the Services under the Agreement.

5. Notifications

- 5.1. In addition to any requirements of notification set out elsewhere in this Agreement or the Schedules, the Service Provider shall notify the HSE in writing, as soon as reasonably practicable, of:
 - 5.1.1. any serious incident that in the reasonable opinion of the Service Provider affects or is likely to affect the Service Provider's performance of his obligations under the Agreement; or
 - 5.1.2. any circumstances which give rise to the HSE's right to terminate the Agreement under Clause 8.2 of Schedule 8.
- 5.2. The Service Provider shall immediately notify the HSE of any changes in the details supplied in the Application Form and this Agreement, including without limitation:

- 5.2.1. the removal of a Premises from those listed at Schedule 1 of this Agreement or any amended schedule;
 - 5.2.2. a change in the hours of service listed at Schedule 1 of this Agreement or any amended schedule;
 - 5.2.3. the removal of a CDT from those listed at Schedule 2 of this Agreement or any amended schedule.
- 5.3. Without prejudice to the generality of the foregoing, the Service Provider's hours of service shall have regard to patient needs in the community and, if a proposed change in the Service Provider's hours is likely to significantly undermine service, the Service Provider shall obtain the HSE's approval of such change and shall cooperate with the HSE in order to ensure that patient needs continue to be met.
- 5.4. The Service Provider shall notify the HSE in writing where he proposes to make any of the following changes and shall obtain the prior written approval of the HSE before implementing such changes:
- 5.4.1. the addition of a Premises to the list set out at Schedule 1 of this Agreement or any amended schedule;
 - 5.4.2. any changes in the information supplied to the HSE in respect of the Service Provider; and/or any CDT carrying out the Services under the Agreement;
 - 5.4.3. the addition of a CDT to those listed at Schedule 2 of this Agreement or any amended schedule.
- 5.5. The HSE shall notify the Service Provider in writing, within one (1) month, of its decision to approve or not to approve the changes specified in Clause 5.4.
- 5.6. Where the Service Provider proceeds to make any of the changes specified in Clause 5.4 in circumstances where the HSE has notified the Service Provider of its decision not to approve such appointment, the HSE shall have the right to terminate the Agreement pursuant to Clause 8.2 of Schedule 8.
- 5.7. The notifications and approvals effected in accordance with this Clause 5 shall form part of the Agreement.

6. Agreement Duration

- 6.1. The Agreement shall, subject to the HSE's rights under Schedule 8 (Agreement Suspension, Sanction and Termination Procedure) be effective for a period of five (5) years from _____ until _____ (the "**End Date**").
[Insert Date] [Insert Date]
- 6.2. The HSE shall be entitled to extend the Agreement for a period not exceeding twelve (12) months from the End Date.

7. Performance Reviews

- 7.1. The HSE may carry out performance reviews from time to time, and the Service Provider shall, and shall ensure that his Staff shall, co-operate fully with the HSE in relation to all such performance reviews. In conducting its performance review, the HSE shall consider any matters it may decide are relevant, including but not limited to the following:
- 7.1.1. Compliance by the Service Provider with the terms and conditions of the Agreement;
 - 7.1.2. Matters concerning the Irish Dental Council and the register of CDTs maintained by the Irish Dental Council;
 - 7.1.3. the probity history of the Service Provider and any CDT responsible for carrying out the Services;
 - 7.1.4. Any complaints against the Service Provider which have been upheld.

8. Amendment of Agreement

- 8.1. The HSE may, following consultation with the Panel, vary the Agreement where:
- 8.1.1. the HSE is reasonably satisfied that it is necessary to vary the Agreement so as to meet its obligations under the Act or other legislation or regulations, or any direction given by the Minister; and
 - 8.1.2. the HSE notifies the Service Provider in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

Where reasonably practicable, the date that the proposed variation shall take effect shall be not less than fourteen (14) days after the date on which notice in accordance with Clause 8.1.2 above is served on the Service Provider.

- 8.2. If the Service Provider wishes to terminate the Agreement following notice of any amendment, the Service Provider shall be entitled to do so in accordance with Clause 8.3 of Schedule 8 and shall be permitted to serve out the required three (3) months notice on the existing terms and conditions of the Agreement, save in emergency circumstances where immediate implementation of the variation is essential in order to protect health and safety.

9. Warranties and Indemnities

- 9.1. Each of the parties to this Agreement warrants that it has power to enter this Agreement and has obtained any necessary approvals to do so.
- 9.2. The Service Provider warrants that:
- 9.2.1. all information in writing provided to the HSE in seeking to become a party to this Agreement was, when given, true and accurate in all material respects;

- 9.2.2. no information has been omitted which would make the information that was provided by the Service Provider to the HSE materially misleading or inaccurate;
 - 9.2.3. no circumstances have arisen which materially affect the truth and accuracy of such information;
 - 9.2.4. he is not as at the date of this Agreement aware of anything within his reasonable control which may or will materially adversely affect his ability to fulfil his obligations under this Agreement.
- 9.3. The HSE is relying wholly and exclusively upon the judgment and expertise of the Service Provider and his Staff in providing the Services and accordingly the Service Provider shall be liable to the HSE for any loss or damage whatsoever, or howsoever or wherever caused arising directly in connection with the Agreement.
- 9.4. The Service Provider warrants and undertakes to the HSE and it shall be a condition of this Agreement that all Dental Prostheses and any associated materials used by the Service Provider in the provision of the Services shall:
- 9.4.1. be of merchantable quality and fit for any purpose held out by the Service Provider and comply with Council Directive 93/42/EEC concerning medical devices and its transposing Irish regulations.;
 - 9.4.2. be free from defects;
 - 9.4.3. correspond in all aspects with the Dental Prosthetic Prescription;
 - 9.4.4. comply with all statutory requirements and regulations relating to the manufacture of Dental Prostheses.
- 9.5. The Service Provider further warrants and undertakes to the HSE and it shall be a condition of this Agreement that:
- 9.5.1. the Service Provider and Staff have the appropriate qualifications, competence and authority to carry out the Services;
 - 9.5.2. the Services shall at all times be provided in a manner consistent with the provisions of this Agreement;
 - 9.5.3. the Services shall comply with all HSE safety requirements and all necessary safety precautions and safety legislation relevant to the provision of the Services including but without limitation the Safety, Health and Welfare at Work Act, 2005 and any amendments thereof and/or regulations rules or orders made pursuant thereto, including the Safety Health and Welfare at Work (General Applications) Regulations 1993, 2001 and 2003, the Confined Space Regulations 2001 and any amendments thereof;

- 9.5.4. the Service Provider shall not do anything to prejudice the name or reputation of the HSE.
- 9.6. The Service Provider shall be responsible for and shall release and indemnify and keep indemnified the Minister and the HSE, its agents, employees, officers, subsidiaries, associated companies, assigns and, where the HSE is acting as an agent, the HSE's principal, on demand and in full against all liability for:
- 9.6.1. all claims, costs, proceedings, demands, losses, damages or liabilities arising directly or indirectly as a result of any material breach or non-performance by the Service Provider of any of the terms, conditions, representations, warranties, obligations or other terms contained in this Agreement or implied hereinto;
- 9.6.2. all actions, costs, damages, claims and demands of any kind arising out of or as a result of any error, omission, inaccuracy or misrepresentation of the Service Provider or his Staff, agents or sub suppliers;
- 9.6.3. all losses and/or expenses which result during proper use directly or indirectly from defective materials, supplies, workmanship or design used by the Service Provider in the carrying out of the Services;
- 9.6.4. any claim made by or on behalf of a third party arising out of any act or default committed by the Service Provider or on his behalf in connection with:
- 9.6.4.1. their employment or non-employment;
- 9.6.4.2. the Service Provider's provision of, or failure to provide the Services or any professional services to any person;
- 9.6.4.3. the Service Provider's failure to comply with legislation;
- 9.6.5. all costs and/or expenses incurred by the HSE by engaging alternative service providers in the event that the Service Provider is unable or unwilling to carry out his obligations under this Agreement and/or in the event that the engagement of alternative service providers by the HSE is necessary to remedy any damage arising as a result of a failure by the Service Provider to provide the Services in accordance with the Agreement;
- 9.6.6. any claims for loss of or damage to property or injury to any person by reason of the Service Provider's negligence, or any act or omission on the part of the Service Provider's Staff, employees, sub-contractors, or agents arising out of the performance of the Agreement; and
- 9.6.7. any damage to HSE property (including any materials or documents sent to the Service Provider for any purpose).

- 9.7. Neither the HSE nor the Service Provider shall be liable for any indirect or inconsequential loss (that is to say loss not naturally or directly flowing from any negligent act, omission or breach) suffered by the other including, loss or diminution of earnings, loss or diminution of profit, loss of contract or loss of opportunity.
- 9.8. The warranties and remedies provided for in this Agreement shall be in addition to those implied by or available at law or in equity and shall continue in force notwithstanding approval by the HSE of Patient Care Plans in accordance with Clause 5.4 of Schedule 5 or of the Premises or the CDTs in accordance with Clause 5 of the Agreement. Such approval by the HSE shall not, in any way, limit the Service Provider's liability and obligations under the Agreement.
- 9.9. The Service Provider shall assign to the HSE the benefit of all warranties, indemnities and other covenants received by the Service Provider from any third party in connection with his obligations under this Agreement.
- 9.10. All representations, warranties and undertakings made pursuant to this Clause 9 shall be deemed to be repeated on the date of this Agreement and on each day thereafter up to and including the date of termination of this Agreement.
- 9.11. The HSE shall give the Service Provider notice of any third party action or claim against it that is or may, in the opinion of the HSE, be the subject of the indemnification described in this Clause 9. The Service Provider shall have the right to defend any such actions or claim, following consultation with the HSE, who shall be kept fully informed at all times of all such claims or proceedings arising from such actions or claims. The HSE shall not settle any such claim made against it without the prior written approval of the Service Provider, such approval not to be unreasonably withheld.

10. Records

- 10.1. The Service Provider shall create and maintain all records:
- 10.1.1. required by the Agreement and applicable laws that relate to the Agreement and to the Service Provider's provision of the Services under the Agreement;
 - 10.1.2. required in accordance with applicable legislation;
 - 10.1.3. sufficient to demonstrate that any and all Fees claimed by the Service Provider are accurate and proper in both kind and amount (including any Dental Claim Forms, Dental Prosthetic Prescriptions or other relevant documents);
 - 10.1.4. sufficient to demonstrate a full, accurate and contemporaneous record in respect of the Services requested by and provided to Patients;
 - 10.1.5. sufficient to enable the HSE to comply with applicable laws relating in particular to labour, environmental, safety and security issues and applicable regulations for the industry, to the extent that the Service Provider has or reasonably should have knowledge of those applicable laws and applicable regulations; together referred to as the "**Records**".

- 10.2. In creating and maintaining the Records, the Service Provider shall employ standards and practices that are no less rigorous than those employed by prudent, well-managed service providers that provide services similar to those that the Service Provider provides under the Agreement within Ireland or any other relevant jurisdiction.
- 10.3. All Records maintained by the Service Provider, including electronic records, shall be dated, legible and shall identify as a minimum the following information;
 - 10.3.1. title, name, address, date of birth, gender, PPS number, medical card number (including position letter and review date) for each Patient;
 - 10.3.2. the CDT(s) responsible for carrying out the Services in respect of each Patient;
 - 10.3.3. the Services provided to each Patient;
 - 10.3.4. details of clinical necessity (where application has been made by the Service Provider in accordance with Clause 5.3.7 of Schedule 5 for approval of repeat treatments within normal time exclusions);
 - 10.3.5. the details and amounts of any Fees received by the Service Provider and the dates upon which payment of such Fees was made;
 - 10.3.6. details of any amendments to the Records;
 - 10.3.7. an audit trail of all Records held on an ICT system (to include full history of all documents created); and
 - 10.3.8. the date and (if relevant) the time that the Services were provided.
- 10.4. The Service Provider's records may be subject to independent audit and verification at the request of the HSE.
- 10.5. The Service Provider shall comply with best practice and with all laws and regulations governing information security, and shall ensure that controls are in place to preserve the confidentiality, security, availability and integrity of its information.
- 10.6. The HSE shall be entitled to inspect the Records at all reasonable times and to obtain full and true copies of Records upon request.
- 10.7. The Service Provider shall retain the Records in accordance with such records retention policies as the HSE may, after consultation with the Panel, prescribe from time to time. With respect to Patients who elect to transfer to another service provider or another DTSS contract holder, the Service Provider shall co-operate fully and facilitate the transfer of copies of the Records to the HSE, service provider or other DTSS contract holder.

11. Inspections

- 11.1. The Service Provider shall facilitate at all reasonable times such inspection of the Premises and the Records and all dental or medical equipment, ICT and facilities used by the Service Provider for the purposes of the Agreement as may be required by the HSE in its discretion, which shall include allowing the HSE access to any information which is reasonably required by the HSE for the purposes of or in connection with the Agreement and/or the HSE's statutory functions.
- 11.2. The HSE's right to inspect pursuant to this Clause 11 shall be subject to the jurisdiction of any other Relevant Body to carry out inspections. The HSE reserves the right to notify any Relevant Body of any matters which may be of relevance to that Relevant Body and of which the HSE becomes aware during the course of an inspection. The HSE shall inform the Service Provider of any such notification.
- 11.3. The Service Provider shall and shall procure that his Staff shall comply in all respects with inspections conducted pursuant to this Clause 11, including, without limitation, facilitating interviews between the Service Provider and the Staff and the HSE or any authorised representatives of the HSE.
- 11.4. The HSE shall be entitled to make copies (including electronic copies) of any Records during the course of an inspection and the Service Provider shall facilitate the taking of such copies by making his photocopying facilities available.
- 11.5. Once an inspection is underway pursuant to this Clause 11, the Service Provider shall not remove any information or document relating to his performance under or compliance with this Agreement from the Premises without the prior consent of the HSE, unless its removal is required in the interests of a Patient in which case the Service Provider shall keep a written record of what was removed, the reasons for its removal and shall provide to the HSE such record in the conduct of any inspection.
- 11.6. In the event that an inspection conducted under this Clause 11 reveals that the Service Provider is failing to provide the Services, or part thereof, in accordance with the terms and conditions of this Agreement, the HSE shall be entitled to exercise any relevant rights or remedies available to it under this Agreement, including the right to impose a sanction or to suspend or terminate the Agreement pursuant to Schedule 8.

12. Insurance

- 12.1. The Service Provider shall take out such insurances as may be prudent in the circumstances of the provision of the Services or as may reasonably be required by the HSE or by law (including but not limited to professional indemnity insurance, employer's liability insurance and public liability insurance) adequate to cover the Service Provider's liabilities under the Agreement and in any event, in amounts of not less than the following unless otherwise agreed between the parties:
 - 12.1.1. Public liability insurance with a limit of indemnity of €6,500,000;

- 12.1.2. Employers liability insurance with a limit of indemnity of €13,000,000; and
- 12.1.3. Professional indemnity insurance with a limit of indemnity of €6,500,000.
- 12.2. The Service Provider shall, on an annual basis, provide the HSE with evidence of such insurances and of payment of the premiums.
- 12.3. The Service Provider shall not do or permit or suffer to be done any act or thing whereby the insurances required by this Clause 12 may lapse or become in whole or in part void or voidable.

13. Data Protection

- 13.1. The Service Provider shall comply with his obligations under the Data Protection Acts 1988 and 2003 and all regulations made thereunder (“**Applicable Data Protection Legislation**”), in the collection and storage of data pursuant to the Agreement. In particular, the Service Provider shall put in place safeguards sufficient to comply with his obligations under the Applicable Data Protection Legislation and must ensure that all Staff are aware of and comply with the obligations imposed by the Applicable Data Protection Legislation.
- 13.2. The Service Provider shall indemnify the HSE against all claims and proceedings and all liabilities, losses, costs, claims, actions, proceedings, demands by third parties and expenses incurred in connection therewith made or brought by any person in respect of any loss, damage or distress caused to that person as a result of the Service Provider’s unauthorised or unlawful processing or the Service Provider’s destruction of or damage to any personal data held by the Service Provider, his employees or agents or due to any failure by the Service Provider to comply with this Clause 13.

14. Freedom of Information

The Service Provider acknowledges that the HSE is subject to the provisions of the Freedom of Information Acts 2003 and 2007 and that the HSE may be obliged to disclose information regardless of any representations made by the Service Provider. However, where a request is made for information furnished by, or which concerns, the Service Provider, the HSE shall, where appropriate, endeavour to consult the Service Provider before responding to such a request.

15. Intellectual Property Rights

- 15.1. The Service Provider shall fully indemnify the HSE against all actions, claims, demands, proceedings, damages, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any Intellectual Property Rights by the provision of the Services and/or any product which is an output of the Services.
- 15.2. The Service Provider shall not be entitled, without the HSE’s permission, to use the HSE’s name or logo on any material, advertising, marketing, promotion or product owned or controlled by the Service Provider.

16. Confidentiality

- 16.1. The HSE and the Service Provider acknowledge that it may be necessary from time to time, to disclose to each other their confidential and proprietary information, including industrial or intellectual property, inventions, drawings, patterns, models, trade secrets, specifications, plans, designs and other information relating to the goods, processes and supply of services of the disclosing party (hereinafter called “Confidential Information”).
- 16.2. Any Confidential Information disclosed by a party to another party shall be used by the receiving party exclusively for the purposes of fulfilling the receiving party’s obligations under this Agreement and for no other purpose other than by the consent of the disclosing party.
- 16.3. Confidential Information shall be deemed not to include:
 - 16.3.1. Information that is in the public domain,
 - 16.3.2. Information that is made public by the disclosing party,
 - 16.3.3. Information that is published or otherwise becomes part of the public domain without any disclosure by the HSE, the Service Provider or by their employees, servants or agents,
 - 16.3.4. Information that becomes available on a non-confidential basis, whether directly or indirectly from a source, which source, did not acquire this information on a confidential basis; and
 - 16.3.5. Information which either party is required by law to disclose to a court or to a government body.

17. Public Notices

- 17.1. The Service Provider shall exhibit at the Premises in such manner as to be readily visible by the public a notice indicating that the Services are available at the Premises and the hours of service set out in Schedule 1 of this Agreement.
- 17.2. The Service Provider shall also exhibit at the Premises in such a manner as to be readily visible by the public a customer charter and complaints policy in accordance with applicable legislation and any customer charter and complaints policy as may from time to time be issued by the Minister, the HSE or by a body acting on behalf of the HSE.

18. Independent Contractor

- 18.1. Neither party to this Agreement shall be the authorised agent of the other party or have the right or authority either express or implied to create or incur any liability against or on behalf of any other party, other than those obligations and liabilities in the Agreement. In particular, the Service Provider shall not hold himself out, nor permit any person to hold him out, as

being authorised to bind or pledge the credit of the HSE in any way and shall not do any act that might reasonably create the impression that he is so authorised.

- 18.2. It is acknowledged by both parties that the Service Provider will at all times be an independent contractor, and nothing in the Agreement will be construed (and the Service Provider will not hold out his relationship) as constituting a partnership, joint venture, representation, agency or employer and employee relationship between the HSE and the Service Provider. If, notwithstanding that intention, any such obligations are transferred to the HSE by operation of law (whether pursuant to the European Communities (Protection of Employee's Rights on Transfer of Undertakings) Regulations, 2003 or otherwise), the Service Provider shall indemnify the HSE on demand against all demands, claims, proceedings, suits, judgments, losses, liabilities, costs, expenses, fees, penalties or fines which may be suffered or incurred by the HSE arising out of or in connection with any such transfer, or any contract of employment so transferred by the HSE subsequent to any such transfer (which the HSE shall be free in its absolute discretion to terminate without prejudice to its rights under this Clause 18.2).

19. Assignment, Transfer and Sub-Contracting

- 19.1. The Service Provider shall not be entitled to sub-contract, assign or transfer the Agreement or any part thereof or the benefit or advantage of the Agreement or any part thereof.
- 19.2. The HSE may assign, transfer or sub-contract the Agreement, or any part thereof. The Service Provider shall, if requested by the HSE, provide all reasonable assistance to the HSE in relation to any such assignment, transfer or sub-contract and fully co-operate with any relevant third parties.
- 19.3. The Agreement shall be binding upon successors and assigns of the HSE and the name the HSE appearing in the Agreement shall be deemed to include the names of its successors and assigns.

20. Costs

Each party to this Agreement will pay its own costs of and incidental to the negotiation and execution of this Agreement.

21. Remedies Cumulative

The provisions of this Agreement, and the rights and remedies of the parties under this Agreement, are cumulative and are without prejudice and in addition to any rights or remedies a party may have at law or in equity. No exercise by a party of any one right or remedy under this Agreement, or at law or in equity, will (save to the extent, if any, provided expressly in this Agreement, or at law or in equity) operate so as to hinder or prevent the exercise by it of any other such right or remedy.

22. Force Majeure

- 22.1. For the purposes of this Agreement, the expression “Force Majeure” shall mean any governmental decision, fire, flood, pandemic or any disaster affecting or delaying the performance by a party of its obligations. Any act, event, omission, happening or non-happening shall only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of either party to the Agreement seeking to rely on it, or of that party’s agents or employees.
- 22.2. Neither party to the Agreement shall in any circumstances be liable to the other for any loss of any kind whatsoever directly or indirectly caused or incurred by the other party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure event.
- 22.3. If either the HSE or the Service Provider becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.
- 22.4. In the event that the Force Majeure event is continuing for a period at least one (1) month, the other party shall have the right to terminate this Agreement upon seven (7) days notice.
- 22.5. It is expressly agreed that any failure by the Service Provider to perform, or any delay by the Service Provider in performing his obligations under this Agreement, which results from any failure or delay in the performance of his obligations by any person, firm or company with which the Service Provider has a contract, supply arrangement or otherwise shall be regarded as a failure or delay due to Force Majeure only in the event that such person, firm or company shall itself be prevented from or delayed in complying with its obligations under such contract, supply arrangement or otherwise as a result of circumstances of Force Majeure.
- 22.6. For the avoidance of doubt it is hereby expressly declared that the only events which shall afford relief from liability for failure or delay shall be events falling within the definition of Force Majeure set out in this Clause 22, and therefore exclude such events as strikes, lock-outs or industrial disputes of the Service Provider and/or other service providers.

23. Entire Agreement

- 23.1. The Agreement contains the entire agreement between the parties and contains all the terms which the parties have agreed with respect to its subject matter and supersedes all previous drafts, agreements, representations, arrangements and understandings between the parties.
- 23.2. Neither party has relied on any other written or oral agreement, representation, arrangement or understanding.

- 23.3. The Service Provider acknowledges that he has not been induced to enter into the Agreement by a statement or promise which the Agreement does not contain. The HSE is not liable in equity, agreement or tort or in any other way for a representation that is not set out in the Agreement.
- 23.4. Nothing in this Clause 23 shall have the effect of limiting or restricting any liability of a party arising as a result of fraud.

24. Non-Survival of Terms

- 24.1. Unless expressly provided, no term of this Agreement shall survive expiry or termination of this Agreement. Express provision is made in relation to:
- 24.1.1. Clause 7 (Performance Reviews);
 - 24.1.2. Clause 11 (Inspections);
 - 24.1.3. Clause 13 (Data Protection);
 - 24.1.4. Clause 14 (Freedom of Information);
 - 24.1.5. Clause 15 (Intellectual Property);
 - 24.1.6. Clause 16 (Confidentiality);
 - 24.1.7. Clause 30 (Governing Law);
 - 24.1.8. Clause 31 (Jurisdiction);
 - 24.1.9. Schedule 4 (Fees and Claiming Procedures); and
 - 24.1.10. Schedule 7 (Mediation Procedure).

25. Severability

All the terms and provisions of this Agreement are distinct and severable, and if any term or provision is held unenforceable, illegal or void in whole or in part by any court, regulatory authority or other competent authority it shall to that extent be deemed not to form part of this Agreement, and the enforceability, legality and validity of the remainder of this Agreement shall not be affected.

26. Forbearance and Waiver Generally

The rights of either party to this Agreement will not be prejudiced or restricted by any indulgence or forbearance extended to the other party, and no waiver by a party in respect of any breach will operate as a waiver in respect of any subsequent breach. No failure or delay by a party in exercising any right or remedy will operate as a waiver thereof, nor will any

single or partial exercise or waiver of any right or remedy prejudice its further exercise or the exercise of any other right or remedy.

27. Waiver by the HSE

Any waiver by the HSE of any of the terms or provisions of this Agreement or any failure or neglect by the HSE to enforce any of the terms or provisions of this Agreement and any indulgence granted by the HSE shall be deemed to be without prejudice to the HSE's entitlement hereunder and shall not be construed or deemed to be a waiver of the HSE's rights hereunder and shall not affect in any manner the entitlement of the HSE to strictly enforce any or all of the terms of this Agreement or the exercise at any time by the HSE of any or all of its rights and entitlements as set out in this Agreement or its remedies (whether arising under this Agreement, at law, in equity or otherwise) in respect thereof.

28. Further Assurances

Each party to this Agreement shall from time to time execute such further assurances and do such things and afford to the other party such assistance as may reasonably be required for the purpose of giving full effect to the terms of this Agreement.

29. Notices

29.1. Any notice or other communication given or made under this Agreement shall be in writing and may be delivered to the relevant party or sent by pre-paid post or fax to the address of that party specified in this Agreement or to that party's fax number thereat or such other address or number as may be notified hereunder by that party from time to time for this purpose and will be effective notwithstanding any change of address or fax number not so notified.

29.2. Unless the contrary is proved, each such notice or communication will be deemed to have been given or made and delivered, if by post forty-eight (48) hours after posting, if by delivery when left at the relevant address or, if by fax upon transmission during normal business hours (otherwise on the next following Business Day), subject to the correct answerback code or fax number being received on the transmission report.

30. Governing Law

The Agreement and all relationships created hereby will in all respects be governed by and construed in accordance with the laws of Ireland.

31. Jurisdiction

Without prejudice to the mediation procedure set out in Schedule 7 to this Agreement, each party hereby irrevocably submits to the non-exclusive jurisdiction of the Irish courts in relation to any disputes which may arise out of or in connection with this Agreement or its performance or enforcement.

SIGNED for and on behalf of
THE HEALTH SERVICE EXECUTIVE

Signed: _____

Title: _____

Location: _____

Date: _____

In the presence of: _____

Title: _____

Date: _____

SIGNED for and on behalf of
THE SERVICE PROVIDER

Signed: _____

Title: _____

Print name in block capitals:

Date: _____

In the presence of: _____

Title: _____

Print name in block capitals:

**Schedule 1
Approved Premises**

The HSE hereby approves the provision of the Services by the Service Provider at the Premises and at the hours specified:

Please complete in BLOCK CAPITALS

Premises Address		Mon	Tues	Wed	Thurs	Fri	Sat	Sun	For Official Use
	a.m.								
	p.m.								
	a.m.								
	p.m.								
	a.m.								
	p.m.								
	a.m.								
	p.m.								
	a.m.								
	p.m.								

Schedule 2

Persons who Perform the Services

Please complete in **BLOCK CAPITALS**

CDT Name and Address for Correspondence	Date of Birth	Irish Dental Council Registration Number	Premises at which Patients will be treated (Identify each Premises)

Schedule 3

The Services

3.1 Oral Inspections and Denture Repairs and Additions

- 3.1.1. The Service Provider is obliged to confirm the eligibility of Patients before commencing the Services and the Service Provider shall have access to the PCRS database via mobile phone and via the internet to enable such confirmation.
- 3.1.2. The CDT responsible for providing the Services to the Patient shall be required to carry out and document an oral inspection to assess the oral tissues of the Patient to establish that the tissues are healthy and suitable for the provision of the treatment envisaged and that no abnormality exists which would require referral of the patient to a registered dental or medical practitioner. Where referral of the patient to a registered dental or medical practitioner is required this shall be recorded in the patient care plan maintained by the Service Provider.
- 3.1.3. In the case of the Oral Inspection of a Dentate Patient, the CDT responsible for providing the Services to the Patient must document all standing teeth in the arch(es), in compliance with any applicable regulations of the Irish Dental Council.
- 3.1.4. **Denture Repairs and Additions (A8)** involves the repair of cracks, fissures, and fractures; the replacement of teeth; the addition of teeth; the replacement of band or wire and the extension of any flange or surface.

3.2 Treatments

- 3.2.1. None of the Treatments listed at Clause 3.2.2 below shall be provided to an Eligible Person until a Dental Claim Form has been submitted to the HSE for approval in accordance with the procedures set out in Schedule 5 and the HSE has approved the Patient Care Plan contained in the Dental Claim Form and returned the approved Dental Claim Form to the Service Provider.
- 3.2.2. The following Treatments (as may be amended by the HSE from time to time) shall be made available by the Service Provider subject to the terms and conditions of this Agreement and in accordance with HSE standard Operating Procedures as may be issued from time to time.

3.2.2.1. Full Denture (B5):

- 3.2.2.1.1. A Full Denture is a removable prosthetic appliance which replaces 12 or more teeth in an arch.
- 3.2.2.1.2. The Fee for a Full Denture shall include the cost of all necessary post-insertion visits.

- 3.2.2.1.3. The Fee for a full upper and/or lower denture, in the case of Patients in long-term residential care, shall include the cost of marking the Denture Prosthesis with patient's name.

3.2.2.2. *Partial Denture (B5):*

- 3.2.2.2.1. A Partial Denture is a removable appliance which restores a Partially Dentate arch, replacing 11 or less teeth.
- 3.2.2.2.2. The Fee for a Partial Denture shall include the cost of all retentive techniques and devices (clips, clasps, etc.) and all necessary post insertion visits.

3.2.2.3. *Denture Reline (B5):*

- 3.2.2.3.1. A Denture Reline includes relining and re-basing dentures with a suitable material and, where necessary, replacement of palate.
- 3.2.2.3.2. The Fee for a Denture Reline shall include the cost of all necessary post insertion visits.

3.3 Service Provider's Obligations

- 3.3.1. The Service Provider shall ensure that all Dental Prostheses provided to Patients pursuant to this Agreement comply with the provisions of Council Directive 93/42/EEC concerning medical devices and its transposing Irish regulations.
- 3.3.2. Dental Prostheses used by the Service Provider shall be obtained only from laboratories registered with the Irish Medicines Board. Where a laboratory from outside the European Union provides Dental Prostheses to the Service Provider, the Service Provider must ensure that such laboratory has an authorised representative registered with the appropriate authority within the European Union.
- 3.3.3. The Service Provider shall prepare a Dental Prosthetic Prescription for each Dental Prosthesis that is prepared. Each Dental Prosthetic Prescription shall list the Patient's name and the Dental Prosthesis design specification and shall include confirmation from the laboratory responsible for the manufacturing of the Dental Prosthesis that it has been made in accordance with the provisions of Council Directive 93/42/EEC concerning medical devices and its transposing Irish regulations. The Dental Prosthetic Prescription shall be part of the Records.

Schedule 4

Fees and Claiming Procedures

4.1 Fees

- 4.1.1. The Service Provider shall be entitled to payment for the Services by reference to the table of fees annexed to this Schedule 4.
- 4.1.2. Fees shall be subject to review having regard to Government policy, directions and orders, the HSE's service requirements and the financial resources available to the HSE.
- 4.1.3. Modernisation and value for money in the delivery of public services is a key Government policy. The HSE shall from time to time set out modernisation targets and initiatives to improve the provision of the Services to Patients and to provide value for money to tax payers.

4.2 Inappropriate Payment or Consideration

- 4.2.1. The Service Provider and his Staff or agents shall not suggest, demand or accept from any Eligible Person or any person acting on behalf of an Eligible Person the payment of any fee or remuneration in respect of any aspect of the Services.
- 4.2.2. Any breach of this Clause 4.2 of Schedule 4 by the Service Provider or his Staff or by anyone acting on behalf of the Service Provider (whether with or without the knowledge of the Service Provider) shall be treated as a serious breach of the Agreement and may be subject to the sanctions set out in Clause 8.6.7.3 of Schedule 8.

4.3 Claiming Procedures

- 4.3.1. The Service Provider shall claim Fees for the Services in accordance with the procedures, validations and timeframes established by the HSE and using the Dental Claim Form or such other forms as may be prescribed from time to time.
- 4.3.2. Every claim for Fees made by the Service Provider shall specify inter alia the name of the CDT who carried out the Services for which payment is sought. The HSE reserves the right to refuse or defer payment of Fees where the requirements of this Clause 4.3.2 are breached.
- 4.3.3. The Service Provider is obliged to confirm the eligibility of Patients before commencing the Services and the Service Provider shall have access to the PCRS database via mobile phone and via the internet to enable such confirmation. The Service Provider shall not be entitled to claim Fees for provision of the Services to persons who are not Eligible Persons.
- 4.3.4. The Service Provider shall provide the HSE with any additional information that the HSE may require in support of any claim for Fees.
- 4.3.5. The HSE reserves the right to introduce an electronic claiming system for Fees which shall be implemented by the Service Provider at the Service Provider's own expense.

Schedule 4

ANNEX

TABLE OF FEES

A8	Denture repairs- 1 st Item of repair	€47.86
A8	Each Subsequent item	€15.34
A8	Maximum	€78.54
B5	Full upper <i>Or</i> lower Denture (replacing 12 or more teeth in either arch)	€326.22
B5	Partial Upper or Lower Acrylic Denture	€239.27
B5	Complete Upper or Lower Reline	€130.59
B5	Complete Upper and Lower Reline	€217.37
B5	Fuller Upper <i>And</i> Lower Denture (replacing 12 or more teeth in each arch)	€478.74

Fees outlined above are inclusive of oral inspection.

Schedule 5

Procedures for the Provision of the Services

5.1 Provision of the Services

- 5.1.1. An Eligible Person may choose to seek the Services from any service provider on the Panel.
- 5.1.2. The Service Provider shall only refuse to provide the Services under this Agreement to an Eligible Person if he has reasonable grounds for doing so which do not relate to that person's race, gender, marital status, family status, age, religion, sexual orientation, disability or membership of the travelling community.
- 5.1.3. In the event of a Service Provider refusing to provide the Services to an Eligible Person the Service Provider shall, at the HSE's request, provide reasons for such refusal.
- 5.1.4. In the event that the HSE does not accept the Service Provider's reason for his refusal to provide the Services to an Eligible Person, the HSE reserves the right to implement any of the sanctions set out in Clause 8.6.7.3 of Schedule 8 or to terminate the Agreement pursuant to Clause 8.2 of Schedule 8.
- 5.1.5. Where the Service Provider refuses to provide the Services, the HSE shall make appropriate alternative arrangements for the Patient.
- 5.1.6. Where the Service Provider has agreed to carry out the Services for a Patient, the Service Provider may subsequently request the permission of the HSE to discontinue the provision of the Services to such Patient. The HSE shall, in its discretion, refuse or permit the Service Provider to discontinue the provision of the Services, and in making its decision the HSE may consider the wishes and needs of the Patient.

5.2 Clinical Impressions

The Service Provider and any CDT carrying out the Services under the Agreement shall be fully responsible for the taking of Clinical Impressions which shall be taken in accordance with best practice and legislative requirements.

5.3 Dental Claim Form and Patient Care Plan Approval Procedure

- 5.3.1. The Service Provider is obliged to confirm the eligibility of Patients before commencing the Services and the Service Provider shall have access to the PCRS database via mobile phone and via the internet to enable such confirmation.
- 5.3.2. The carrying out of services by the Service Provider or any CDT carrying out the Services under the Agreement shall be subject to the approval procedures set out in this Clause 5.4 of Schedule 5.

- 5.3.3. Once an Oral Inspection has been conducted the Service Provider or the CDT responsible for carrying out the Services in respect of the Patient shall submit a Patient Care Plan specifying the Treatments required by the Patient to the HSE for approval.
- 5.3.4. No Treatment shall be provided to an Eligible Person until a Patient Care Plan has been submitted to the HSE for approval and the HSE has approved the Patient Care Plan in accordance with the procedures set out below.
- 5.3.5. The HSE shall confirm or refuse its approval of a Patient Care Plan within one (1) month of receipt of same. In the event of approval being refused, the HSE shall provide specific reasons to the Service Provider for such refusal.
- 5.3.6. Where the HSE approves a Patient Care Plan, the Dental Claim Form shall be stamped by the HSE and returned to the Service Provider. Upon receipt of the stamped Dental Claim Form by the Service Provider, the Service Provider or the CDT responsible for carrying out the Services in respect of the Patient shall commence Treatment in accordance with the approved Patient Care Plan.
- 5.3.7. All Treatments may only be provided to Eligible Patients once in any five (5) year period. In the event that a further Treatment is required within such five (5) year period, the Patient Care Plan is submitted by the Service Provider to the HSE for approval in accordance with Clause 5.4 of this Schedule 5 and must provide specific clinical reasons why a further Treatment is required.

5.4 Completion of Treatment

- 5.4.1. The Service Provider shall use his best endeavours to ensure that all Treatments are completed and within a reasonable timeframe from the date on which the Dental Claim Form is returned to the Service Provider by the HSE.
- 5.4.2. In any event, the Service Provider shall ensure all Treatments are completed within nine (9) months of the date on which the Dental Claim Form is returned to the Service Provider in accordance with Clause 5.4.6 of this Schedule 5 or within such longer period as the HSE may approve in writing.
- 5.4.3. If, owing to the death, or change of address of a Eligible Person, or any other factor beyond the control of the Service Provider, the Treatment of such Eligible Person cannot be completed by the Service Provider, the Service Provider shall notify the HSE in writing of the reasons why the Treatment cannot be completed and shall identify the Treatment completed to date and the Treatment which remains outstanding. The Service Provider shall be entitled to payment for the Treatment completed to date in accordance with the provisions of Schedule 4.
- 5.4.4. Where the Treatment has not commenced within a period of three (3) months from the date on which the Dental Claim Form containing the approved Patient Care Plan is returned to the Service Provider, the approval of the Patient Care Plan shall be deemed to be withdrawn and the Service Provider shall return the Patient's Dental Claim Form to the HSE.

- 5.4.5. Within one (1) month of completion of the Treatment, the Service Provider shall confirm in writing to the HSE that the Treatment has been conducted in accordance with the approved Patient Care Plan and the provisions of this Agreement. The Service Provider and the Patient (or a person acting on behalf of the Patient) shall sign the certificate of completion which shall be contained in the Dental Claim Form in respect of the Treatment and shall return same to the HSE. The Service Provider shall then be entitled to claim payment of Fees for the Treatment in accordance with Schedule 4.
- 5.4.6. In the event that any Treatment provided does not correspond in full with the Treatment specified in the approved Patient Care Plan, the Service Provider shall ensure that any appropriate reduction that may be necessary is made in any claim for Fees made by the Service Provider.
- 5.4.7. Repeated failure by an Eligible Person to present for Treatments shall be notified by the Service Provider to the HSE and where such failure to present is considered to be a cause for concern, the matter shall be dealt with by the HSE.

Schedule 6

Governance

6.1 Monitoring of Deliverables

- 6.1.1. Where this Agreement imposes an obligation on the Service Provider, the Service Provider must comply with it and must take all reasonable steps to ensure that Staff and any CDTs providing the Services under the Agreement comply with it. Similarly, where this Agreement imposes an obligation on the HSE, the HSE must comply with it and must take all reasonable steps to ensure its personnel, contractors and service providers (save for the Service Provider) comply with it.
- 6.1.2. Both parties to this Agreement shall be entitled to verify the other party's compliance with the terms and conditions of the Agreement. The deliverables of each party (the Services being the deliverables in the case of the Service Provider and the Fees being the deliverables in the case of the HSE) shall be capable of being demonstrably confirmed in transparent fashion.
- 6.1.3. Service Providers shall be entitled to monitor the accuracy and appropriateness of payments made by the HSE and the HSE shall be entitled to monitor the provision of the Services in order to establish to their satisfaction that each party is meeting its obligations under the Agreement.

6.2 Service Provider's Governance Responsibilities

- 6.2.1. The Service Provider and its Staff shall:
 - 6.2.1.1. Put Patients' interests before those of the Service Provider;
 - 6.2.1.2. Be aware of their legal responsibilities and ensure that these are fulfilled;
 - 6.2.1.3. Understand and fulfil all legal and ethical responsibilities in relation to equality and diversity;
 - 6.2.1.4. Ensure that the interests of Patients are not compromised by allowing financial and other targets to have a negative influence on the quality of the Services provided;
 - 6.2.1.5. In the delegation of managerial responsibilities, ensure that the person(s) to whom responsibilities are delegated is/are competent to do what is asked of them;
 - 6.2.1.6. Maintain early warning systems which ensure that any concerns about the health, behaviour and professional performance of Staff are addressed promptly and effectively;

- 6.2.1.7. Encourage Staff to raise any concerns they have about any risks that the health, behaviour or performance of any other member of Staff may present to the safety of patients;
- 6.2.1.8. Ensure that any concerns Staff may have regarding any decision or activity that would put Patients at risk are raised and dealt with promptly and effectively;
- 6.2.1.9. Ensure that CDTs carry out the Services in accordance with the CDTS and the CDT Ethics and Conduct Documents.
- 6.2.1.10. Operate a system of Clinical Audit in accordance with best practice within the dental profession and with any Clinical Audit system established pursuant Clause 6.5 of this Schedule 6;
- 6.2.1.11. Comply with current infection control standards, including the Irish Dental Council's "*Code of Practice Relating to Infection Control in Dentistry*", and such other regulations or guidelines as issued by HIQA or the HSE as may apply;
- 6.2.1.12. Ensure that Staff are adequately trained in health and safety issues (including infection control) and emergency-handling (including cardio-pulmonary resuscitation) and in all other areas in which training may be required to ensure proper provision of the Services;
- 6.2.1.13. Cooperate with the HSE in its conduct of any Patient satisfaction surveys that may be implemented by the HSE from time to time;
- 6.2.1.14. Provide information to Patients regarding the Services and any aftercare requirements;
- 6.2.1.15. Operate a patient charter and complaints procedure in accordance with Clause 6.4 of this Schedule 6;
- 6.2.1.16. Provide evidence to HSE at the HSE's request that the Patient's consent to all Services was obtained;
- 6.2.1.17. Provide information to the HSE on waiting times (being the time period that elapses between a Patient requesting the Services and the Services being provided to that Patient) for patients, if required;
- 6.2.1.18. Arrange for all CDTs engaged in the provision of the Services to participate in Continuing Professional Development and provide evidence of such participation to the HSE as required; and
- 6.2.1.19. Co-operate with HIQA and provide to the HSE any information that may be required for use by HIQA.

6.3 Probity Assurance and Accountability

- 6.3.1. The Service Provider shall co-operate with all governance and probity assurance arrangements. Such arrangements shall include, but shall not be limited to, the following:
- 6.3.2. The inspection of the Premises by the HSE, to include the inspection of equipment and Records;
- 6.3.3. The provision of all information (including Records) that the HSE may request within the timeframe specified by the HSE,
- 6.3.4. The provision of timely and complete responses by the Service Provider to correspondence from the HSE,
- 6.3.5. Full cooperation with the HSE or any other party acting on behalf of the HSE.
- 6.3.6. The HSE may conduct checks in respect of its probity assurance arrangements and such checks shall include, but shall not be limited to, the following:
 - 6.3.6.1. The suitability and adequacy of the Service Provider's consultation and treatment environments, including health and safety considerations for both Staff and Patients;
 - 6.3.6.2. Maintenance of appropriate patient records by the Service Provider;
 - 6.3.6.3. Maintenance by the Service Provider of the insurances and indemnities required under the Agreement;
 - 6.3.6.4. The operation of appropriate risk management policies and procedures by the Service Provider;
 - 6.3.6.5. The operation of appropriate complaints procedures by the Service Provider;
 - 6.3.6.6. The Service Provider's participation in Clinical Audit, research and development;
 - 6.3.6.7. Quality of the Service Provider's diagnosis and treatment planning;
 - 6.3.6.8. Quality of the Services provided by the Service Provider;
 - 6.3.6.9. The Service Provider's ongoing participation in Continuing Professional Development;
 - 6.3.6.10. The accuracy of any claim forms for Fees submitted by the Service Provider;
 - 6.3.6.11. The professional performance of the CDT(s) carrying out the Services under the Agreement;

- 6.3.6.12. Compliance by the Service Provider with all terms and conditions of the Agreement.
- 6.3.7. The HSE may at its discretion defer the payment of Fees pending the completion of such probity assurance checks.
- 6.3.8. Payment of Fees may be refused by the HSE where the Service Provider fails to satisfy the probity assurance requirements set out in this Clause 6.3 of Schedule 6. This is without prejudice to any other sanctions which the HSE may impose in accordance with Clause 8.6.7.3 of Schedule 8.

6.4 Patient Charter and Complaints Procedure

- 6.4.1. A patient charter shall be developed by the HSE after consultation with the Panel and appropriate Patient representative group(s) and the Service Provider shall observe in full the provisions of this patient charter and display it at a location on the Premises where it can be easily seen by Patients.
- 6.4.2. The Service Provider shall operate a written complaints procedure for Patients in line with the provisions of Part 9 of the Health Act 2004, the Health Act 2004 (Complaints) Regulations 2006 (S.I. 652 of 2006) and the HSE's Policy and Procedures on complaints handling.
- 6.4.3. This complaints procedure may be further developed by the HSE after consultation with the Panel and appropriate Patient representative group(s) and the Service Provider shall observe and display the complaints procedure in accordance with the provisions of Clause 6.4.1 above.

6.5 Clinical Audit System

- 6.5.1. The Service Provider shall implement a Clinical Audit System and the HSE shall consult with the Panel to devise and facilitate the implementation of suitable Clinical Audit arrangements.
- 6.5.2. In order to ensure best practice in Clinical Audit, the Service Provider shall comply with such clinical governance initiatives and arrangements as the HSE may establish in respect of the Services, and with any relevant standards or guidance issued from time to time by HIQA or other Relevant Bodies.

6.6 Standards

The HSE may, after consultation with the Panel, establish further standards and procedures from time to time and the Service Provider must comply fully with any and all such standards.

6.7 Risk Management

Risk management is one of the key elements of governance in the health sector. The Service Provider shall cooperate fully with any initiatives and arrangements which the HSE may from

time to time introduce and shall embed best practice in risk management in his provision of the Services.

6.8 Human Resources

6.8.1. In respect of his Staff, the Service Provider shall:

- 6.8.1.1. Provide the HSE with evidence of entry on the register of CDTs maintained by the Irish Dental Council, professional indemnity cover and requisite professional qualifications for each CDT engaged in the provision of the Services under the Agreement;
- 6.8.1.2. Ensure that all appropriate pre-employment checks are carried out on all Staff (including locum Staff);
- 6.8.1.3. Ensure that the pre-employment checks specified in Clause 6.8.1.2 above are also conducted for all replacement, temporary or agency Staff;
- 6.8.1.4. Ensure that all Staff (including locum Staff) receive appropriate induction and ongoing training to enable them to discharge their roles and to carry out the Services effectively and safely. Records of training and induction shall be maintained by the Service Provider and should be open to inspection by HSE;
- 6.8.1.5. Ensure that the rates of pay and the conditions of employment of all Staff comply with all applicable legislation from time to time in force relating to employment, health and safety at work, pensions and staff welfare.

6.9 Premises

- 6.9.1. The Premises shall be fit for purpose, suitable for the delivery of the Services and sufficient to meet the reasonable needs of Patients.
- 6.9.2. The HSE may define further standards from time to time in respect of the Premises to govern matters such as access to and within the Premises, accommodation, toilet facilities, storage of clinical supplies and storage of clinical waste.
- 6.9.3. The following minimum standards shall be observed by the Service Provider in respect of the Premises:
 - 6.9.3.1. The Premises shall have full planning permission for the purposes of providing the Services in accordance with the Agreement.
 - 6.9.3.2. The Service Provider shall exhibit at the Premises in such manner as to be readily visible by the public a notice indicating that the Services are being carried out by the Service Provider at the Premises and indicating the hours of service.
 - 6.9.3.3. All rooms within the Premises shall be decorated to an adequate standard, with no flaking paint, peeling wallpaper or excessive dampness.

- 6.9.3.4. A high standard of cleanliness shall at all times be maintained throughout the Premises.
- 6.9.3.5. Seating in waiting rooms shall be of durable construction and in reasonable repair. Upholstery of such seating shall be non-flammable.
- 6.9.3.6. Adequate toilet facilities shall be provided and properly maintained.
- 6.9.3.7. Flooring in the Premises, particularly in areas where Patients are being treated, shall be impervious and readily cleanable.
- 6.9.3.8. The Service Provider shall ensure that the Premises comply with the Building Regulations 1997 – 2002 (and any amendments thereto) and all other applicable legislative requirements in relation to wheelchair accessibility.

6.10 Equipment

- 6.10.1. The Service Provider shall provide such facilities and equipment as are necessary to enable him to properly provide the Services.
- 6.10.2. All equipment used in the provision of the Services shall be sufficient and fit for purpose and used in accordance with the manufacturer's instructions.

6.11 Disposal of Clinical Waste

- 6.11.1. The proper and safe disposal of clinical waste is an imperative having regard to public health, the health and safety of Patients, the general public at large and CDTs and Staff providing the Services.
- 6.11.2. The Service Provider shall, in accordance with best practice and legislative requirements, implement policies and procedures which provide for the safe disposal of clinical waste and maintain full records of his handling of such waste.
- 6.11.3. The HSE reserves the right to examine the records specified in Clause 6.11.2 above and to carry out inspections and testing to ensure that the Service Provider is in full compliance with his obligations in respect of his management of clinical waste.

6.12 Clinical Impressions

The Service Provider and any CDT carrying out the Services under the Agreement shall be fully responsible for the taking, treatment and carriage of Clinical Impressions which shall be in accordance with best practice and legislative requirements.

6.13 ICT and other Technologies

- 6.13.1. Information, Communication and Technology ("ICT") systems used in the provision of primary care are required to support defined technical and coding standards, management of

patient indices and eligibility verification, e-claiming and electronic communications with other aspects of the health system including diagnostic centres and Clinical Audit.

- 6.13.2. To facilitate on-line claiming for Fees and agreement management, the Service Provider may be required to ensure that his ICT systems are compatible with the HSE's ICT systems and the Service Provider's ICT systems shall be subject to the approval of the HSE.
- 6.13.3. The Service Provider shall ensure that all data stored on his ICT systems is kept up-to-date, accurate, secure and 'backed-up'. The HSE reserves the right to develop a standard ICT framework in this regard which shall include data quality standards, audit standards and coding standards. No confidential patient information shall be stored on unsecured media such as data keys, mobile phones etc..
- 6.13.4. The HSE reserves the right, after consultation with the Panel, to develop standards and obligations in respect of the provision of electronic data by the Service Provider to the HSE for the purposes of health planning, quality assurance and monitoring variations in health outcomes.

Schedule 7

Mediation Procedure

7.1 Application

- 7.1.1. This Schedule 7 shall apply to matters of an operational nature. The HSE may, after consultation with the Panel, develop a list of such matters from time to time and such list shall be appended to this Schedule 7.
- 7.1.2. For the avoidance of doubt, the procedures set out in this Schedule 7 shall not apply to:
- 7.1.2.1. Any amendment by the HSE of the Services;
 - 7.1.2.2. Any amendment by the HSE of the Fees set out in the Appendix to Schedule 4;
 - 7.1.2.3. Any matters dealt with in accordance with the procedures set out in Schedule 6;
 - 7.1.2.4. Any matters concerning the eligibility of Patients to receive the Services.

7.2 Resolution through Liaison

- 7.2.1. The parties shall use their best endeavours to communicate and co-operate with each other with a view to resolving in good faith any dispute or difference arising between them before referring the dispute for determination in accordance with the procedures set out below.
- 7.2.2. In the first instance, the parties shall submit any dispute to the personnel nominated specifically to participate in the escalation process and identified as such in the Annex to this Schedule 7 in the order set out therein.
- 7.2.3. If any dispute is resolved pursuant to Clause 7.2.2 a written memorandum, (a “**Memorandum of Resolution**”), will be prepared jointly and signed by both the HSE and the Service Provider. The Memorandum of Resolution will confirm that the resolution is in full and final settlement of the dispute and will record all matters in issue and all material factual details of the dispute and the terms of resolution and a copy will be supplied to both the Service Provider and the HSE.

7.3 Mediation

If the parties cannot resolve any dispute within two (2) months of the commencement of negotiations to resolve the matter through liaison in accordance with Clause 7.2 of this Schedule 7, or such period as the parties may subsequently agree, either party may refer the dispute to a mediator (the “Mediator”) by way of a written referral (the “Referral to Mediation”).

7.4 Appointment of Mediator

- 7.4.1. Upon receipt of the Referral to Mediation, the HSE shall select the Mediator to be appointed in any given case.
- 7.4.2. If a Mediator is unable to act or does not confirm his/her availability to act within seven (7) days of being requested to act by the HSE, the HSE shall select an alternative Mediator.
- 7.4.3. The Mediator shall have full power to determine the admissibility of any dispute to the Mediation Procedure.
- 7.4.4. The Mediator shall have exclusive jurisdiction to decide whether all good faith attempts to resolve the dispute in accordance with Clause 7.2 have been adequately explored and exhausted by the parties and whether the matter is appropriate for Mediation. The Mediator may refer the matter back for further good faith negotiations between the parties where appropriate for such a period of time as the Mediator may deem to be appropriate.

7.5 Mediation Proceedings

- 7.5.1. If the Mediator decides that the dispute shall proceed to Mediation, the other party shall within four (4) weeks of the Mediator notifying the parties of this decision, prepare and lodge a reply to the Referral to Mediation (the “Reply”) with the Mediator.
- 7.5.2. The parties shall, within fourteen (14) days of the appointment of the Mediator, or any such period as the parties may subsequently agree, meet or correspond with the Mediator to agree a programme for the exchange of any relevant information and documentation and the structure to be adopted for the Mediation.
- 7.5.3. The Mediation shall be held within four (4) weeks of the expiry of the deadline for receipt of the Reply, regardless of whether a Reply has been served.
- 7.5.4. The parties shall organise a suitable, mutually convenient venue and date for any meetings and for the Mediation and shall make any necessary arrangements for general administration in relation to the Mediation.
- 7.5.5. The Mediator shall, following consultation with the parties where appropriate:
 - 7.5.5.1. Chair the Mediation;
 - 7.5.5.2. Attend where appropriate meetings with either of the parties prior to the Mediation;
- 7.5.6. All proceedings relating to the Mediation shall be held in private.
- 7.5.7. Both parties shall be entitled to bring representation to the Mediation and shall provide the other party with prior notice of the identity of any representatives.

- 7.5.8. Unless both parties and the Mediator otherwise agree, every person involved in the Mediation shall keep confidential and not use for any other purpose all information (whether given orally, in writing or otherwise) arising out of, or in connection with, the Mediation, including the fact of any outcome, decision or recommendation and its terms, save for the fact that the Mediation is to take place or has taken place.
- 7.5.9. All information (whether oral, in writing or otherwise) arising out of, or in connection with, the Mediation shall be without prejudice, privileged and inadmissible as evidence or disclosable in any current or subsequent dispute resolution, litigation or any proceedings whatsoever. This does not apply to any information which would in any event have been admissible or disclosable in any such proceedings.
- 7.5.10. None of the parties will call the Mediator to act as a witness, consultant or expert in any litigation or proceedings whatsoever arising from, or in connection with, the matters at issue in the Mediation.

7.6 Written Agreement to be Binding

If the parties accept the Mediator's recommendations or otherwise reach agreement on the resolution of the dispute, such agreement shall be recorded in writing and, once signed by the Service Provider and the HSE, shall be binding on the parties.

7.7 Non-Binding Opinion

If no agreement is reached, either party may invite the Mediator to provide both parties a non-binding opinion in writing. Such opinion shall not be used in evidence in any concurrent or subsequent proceedings, without the prior written consent of both parties.

7.8 Costs of Mediation

- 7.8.1. The reasonable fees, costs and expenses of the Mediator and the costs of the venue for any hearing in the Mediation process shall be borne by the HSE. For the avoidance of doubt, in all other respects, each party shall bear its own costs and expenses of its participation in the Mediation.
- 7.8.2. The HSE shall provide any necessary administrative support required for the Mediation.

Schedule 7

ANNEX

ESCALATION PROCEDURE

In the event of a dispute in relation to matters of an operational nature, the parties shall, in accordance with Clause 7.2.2, submit the dispute to the following personnel in the order set out below:

1. HSE Designated Manager

2. HSE Designated Manager

Schedule 8

Agreement Suspension, Sanction and Termination Procedure

8.1 Context

- 8.1.1. The Service Provider shall comply fully with the terms and conditions of the Agreement. Without prejudice to all other rights of the HSE under the Agreement, in the event of breach by the Service Provider of any term or provision of the Agreement, the HSE shall have recourse to this Schedule.
- 8.1.2. For the avoidance of doubt, the HSE shall, in its discretion, be entitled to exercise its rights pursuant to this Schedule 8 notwithstanding the fact that a mediation procedure has been initiated in accordance with Schedule 7.

8.2 Termination by the HSE

- 8.2.1. Without prejudice to any other rights or remedies to which the HSE may be entitled, the HSE shall be entitled to terminate this Agreement without liability to the Service Provider with immediate effect at any time if:-
- 8.2.1.1. in the opinion of the HSE, the Service Provider has failed to comply with the terms and provisions of the Agreement to a degree which the HSE considers to be material,
 - 8.2.1.2. the Service Provider has failed to provide the Services to any Eligible Person without good reason;
 - 8.2.1.3. the Service Provider has failed in his obligation to ensure that only the CDTs named in Schedule 2 and/or approved by the HSE in accordance with Clause 5 of the Agreement may provide the Services under the Agreement;
 - 8.2.1.4. the Service Provider has failed to provide the Services at the Premises listed in Schedule 1 and/or approved by the HSE in accordance with Clause 5 of the Agreement;
 - 8.2.1.5. representation made by the Service Provider in connection with the Agreement is in the opinion of the HSE untrue or incorrect in a material respect as of the date when made;
 - 8.2.1.6. the HSE is satisfied, on foot of a determination by a competent medical examiner nominated by the HSE that the Service Provider, and/or any CDT providing the Services under the Agreement is suffering from permanent infirmity of mind or body that impedes the Service Provider's ability to carry out the Services. Where a dispute exists as to the findings of the medical examiner or where a conflicting medical opinion is provided to the HSE by a competent medical examiner on behalf of the CDT, the HSE shall refer the CDT to an independent medical examiner and shall take the findings of this medical examiner into consideration in arriving at its final conclusion.

- 8.2.1.7. the Service Provider; and/or any CDT providing the Services under the Agreement has been found guilty by a court of law of committing any fraudulent act or any criminal activity or gross negligence in the performance of the Agreement;
- 8.2.1.8. the Service Provider, and/or any CDT providing the Services under the Agreement is removed from the register of CDTs maintained by the Irish Dental Council or from the register of an equivalent authority in any jurisdiction;
- 8.2.1.9. disciplinary measures (other than removal from the Register) are taken by the Irish Dental Council or by an equivalent authority against the Service Provider and/or any CDT providing the Services under the Agreement considered sufficiently serious by the HSE, in its discretion, to justify termination of the Agreement;
- 8.2.1.10. the Service Provider, pursuant to Clause 8.6.7.31. of this Schedule 8, receives three (3) warning or admonishment notices within a twenty-four (24) month period;
- 8.2.1.11. the Service Provider fails to complete the periods of specified educational training or corrective development coaching in accordance with the provisions of Clause 8.6.7.3.2 of this Schedule 8 within thirty (30) days or such greater period as may be agreed with the HSE of such training or development coaching requirement being imposed,
- 8.2.1.12. the Service Provider proceeds to appoint a CDT where the HSE has notified the Service Provider in writing of its decision not to grant approval of such appointment pursuant to Clause 5 of the Agreement;
- 8.2.1.13. the Service Provider is declared bankrupt;
- 8.2.2. The Service Provider fails to supply to the HSE documentation necessary for ongoing maintenance of the Agreement (such documentation to include evidence of insurance, evidence of current Irish Dental Council registration, up-to-date professional indemnification and tax clearance certification in respect of any CDT carrying out the Services under the Agreement or the Service Provider as appropriate) within thirty (30) days of written notice requesting such documentation being issued to the Service Provider by the HSE;
- 8.2.3. The Service Provider takes up full-time employment with the HSE or with the Government, and the HSE, following a review of the circumstances, decides in its discretion that a conflict of interest situation exists.
- 8.2.4. In the event of the termination of the Agreement pursuant to this Clause 8.2, the HSE may, at its sole discretion, also consider termination of such other agreements (of any nature) as the Service Provider may hold with the HSE.

8.3 Termination by Either Party

Without prejudice to any other rights or remedies to which either party may be entitled, either party shall be entitled to terminate the Agreement forthwith on giving three (3) months notice in writing of its intention to terminate.

8.4 Effects of Termination

- 8.4.1. For the avoidance of doubt, the Agreement shall terminate automatically on the End Date.
- 8.4.2. Upon termination of the Agreement, the Service Provider shall be removed from the Panel.
- 8.4.3. Upon termination of the Agreement, HSE approval in respect of any Patient Care Plan for which Treatment has not commenced shall be deemed to be withdrawn.
- 8.4.4. Any Treatment required pursuant to a Patient Care Plan which has already been approved by the HSE and commenced by the Service Provider prior to termination of the Agreement shall be completed by the Service Provider.
- 8.4.5. For the avoidance of doubt, when the Agreement terminates, any obligation of the HSE to make payment is subject to HSE's right to set off against any amount payable by it to the Service Provider any sums owed to the HSE by the Service Provider which shall include, in particular:
 - 8.4.5.1. any payment made by the HSE to the Service Provider in error; and/or
 - 8.4.5.2. any payment made by the HSE to the Service Provider which the HSE was not required to pay.
 - 8.4.5.3. any payment made by the HSE for claims subsequently found to be fraudulent.
- 8.4.6. Any provision of this Agreement which relates to or governs acts of the parties after the Agreement ends remains in full force and effect and is enforceable even though it has ended.

8.5 Suspension

- 8.5.1. Without prejudice to any other rights or remedies to which it may be entitled, the HSE shall be entitled to suspend the Agreement and order an inquiry to be conducted in accordance with Clause 8.6 of Schedule 8 and/or refer the matter to the Irish Dental Council, An Garda Síochána or other Relevant Body where:
 - 8.5.1.1. in the opinion of the HSE the Service Provider and/or any CDT providing the Services under the Agreement has behaved in a fraudulent manner or other circumstances exist which are sufficiently serious to warrant such suspension in the public interest.

- 8.5.1.2. pending a determination by a competent medical examiner, the HSE has reason to believe that the Service Provider, and/or any CDT providing the Services under the Agreement is suffering from serious infirmity of mind or body, such as to render him/her incapable of providing the Services;
 - 8.5.1.3. the Service Provider and/or any CDT providing the Services under the Agreement is, for any reason, temporarily removed from the register of CDT's maintained by the Irish Dental Council;
 - 8.5.1.4. disciplinary measures (other than removal or temporary removal from the register of CDTs maintained by the Irish Dental Council) are taken by the Irish Dental Council or by an equivalent authority against the Service Provider and/or any CDT providing the Services under the Agreement which are considered sufficiently serious by the HSE, in its discretion, to justify suspension of the Agreement;
 - 8.5.1.5. in the opinion of the HSE, the Service Provider has failed to comply with the terms and provisions of the Agreement, or has failed to provide the Services to any Eligible Person in accordance with the terms and conditions of the Agreement.
- 8.5.2. A suspension ordered under this Clause 8.5 shall continue in full force and effect pending the outcome of the inquiry conducted under Clause 8.6 of this Schedule 8 and/or pending the determination of the matter by the Irish Dental Council, An Garda Síochána or other Relevant Body or such shorter period as may be determined by the HSE.
- 8.5.3. In the event of the suspension of the Agreement pursuant to this Clause 8.5, the HSE may, at its sole discretion, also consider suspension of such other agreements (of any nature) as the Service Provider may hold with the HSE.

8.6 Inquiry

- 8.6.1. In circumstances where the HSE has reason to believe that the Service Provider has failed to comply with any of the terms or provisions of the Agreement or has failed to provide the Services to any Eligible Person or where the HSE has suspended the Agreement in accordance with the provisions of Clause 8.5, the HSE shall notify the Service Provider in writing of the details of such matter and shall notify the Service Provider that it shall consider any representations made by the Service Provider or on the Service Provider's behalf and received within fourteen (14) days of such notification by the HSE.
- 8.6.2. The HSE may, if it is satisfied, after consideration of any representations which the Service provider may make in regard to this matter, that the Service provider has not complied with the terms of this agreement and if it so thinks fit, conduct a fair and transparent inquiry into the matters referred to in Clause 8.6.1, having due regard to the principles of fair procedure and natural justice. Any inquiry conducted by the HSE shall be completed within a reasonable timeframe.

- 8.6.3. The Service Provider shall and shall procure that his Staff co-operate fully with the HSE and shall not in any way encumber the HSE in the conduct of an inquiry under this Clause 8.6.
- 8.6.4. During the course of an inquiry, the Service Provider shall permit the HSE to inspect all Premises at which Services are provided.
- 8.6.5. For the purposes of an inquiry the Service Provider shall make all Records available to the HSE and shall allow the HSE to make copies of such records where requested.
- 8.6.6. A Service Provider shall permit his Staff, including any CDTs carrying out the Services under the Agreement to be interviewed by the HSE or any authorised representative of the HSE.
- 8.6.7. Upon the determination of any inquiry conducted in accordance with the provisions of this Clause 8.6, the HSE may:
 - 8.6.7.1. lift the suspension imposed pursuant to Clause 8.5 of this Schedule 8;
 - 8.6.7.2. terminate the Agreement pursuant to Clause 8.2 of this Schedule 8;
 - 8.6.7.3. impose one of the following sanctions on the Service Provider:
 - 8.6.7.3.1. Issue a warning or admonishment to the Service Provider. If during any twenty-four (24) month period, a Service Provider receives three (3) warning or admonishment notices, then without prejudice to any other rights or remedies to which it may be entitled, the HSE shall be entitled to terminate this Agreement without liability to the Service Provider with immediate effect;
 - 8.6.7.3.2. Require the Service Provider and his Staff and any CDT carrying out the Services under the Agreement, at his own cost, to undergo periods of specified educational training or corrective development coaching and to furnish the HSE with evidence of successful completion of the prescribed training or development coaching and a report setting out the effectiveness of same. If the Service Provider fails to adhere to or to comply with this requirement within thirty (30) days of such requirement being imposed by the HSE or such greater period as may be agreed with the HSE, the HSE may terminate the Agreement without liability to the Service Provider with immediate effect;
 - 8.6.7.3.3. Preclude the Service Provider or a CDT carrying out the Services under the Agreement from providing the Services for a specified period of time or until such time as any conditions that may be specified by the HSE are satisfied by the Service Provider. The HSE may, at its absolute discretion, enter into appropriate arrangements to enable another CDT to provide the Services during the period in which the provisions of this Clause 8.6.7.3 are in force;

- 8.6.7.3.4. Require the Service Provider to demonstrate that it has met the standards and requirements necessary to continue to hold the Agreement;
- 8.6.7.3.5. Require the Service Provider to re-pay to the HSE such Fees as may be deemed by the HSE to have been inappropriately claimed by the Service Provider. The HSE shall be entitled to set-off such re-paid Fees against any other sums owed to the Service Provider;
- 8.6.7.3.6. Preclude the Service Provider or a CDT carrying out the Services under the Agreement from providing a specified Treatment for a period of time or on a permanent basis;
- 8.6.7.3.7. Invoke special arrangements for claiming of Fees by the Service Provider for a period of time or on a permanent basis;
- 8.6.7.3.8. Require the Service Provider or a CDT carrying out the Services under the Agreement to comply with specific performance management arrangements until such time as the HSE, in its discretion, is satisfied that special arrangements are no longer required;
- 8.6.7.3.9. Terminate the Agreement, specifying a period of time that must elapse before an Application Form submitted by the Service Provider for a new agreement shall be considered by the HSE. Any re-application accepted by the HSE may be subject to specific performance arrangements at the discretion of the HSE;
- 8.6.7.3.10. Terminate the Agreement, prohibiting any subsequent re-application for a new agreement by the Service Provider.

8.7 Appeal Procedure

- 8.7.1. Where a Service Provider and/or any CDT providing the Services under the Agreement is successfully prosecuted through the courts for fraudulent behaviour or any criminal activity or is guilty of gross negligence in the performance of the Services under the Agreement, this Appeal Procedure shall not be available.
- 8.7.2. If the Service Provider is dissatisfied with any action of the HSE taken pursuant to Clause 8.6.7.3 of this Schedule 8 other than the issue a warning or admonishment notice in accordance with Clause 8.6.7.3.1, the Service Provider may, by giving notice in writing to the HSE (“Notice of Appeal”) within fourteen (14) days of the decision of the HSE to take such action, appeal against the action.
- 8.7.3. As soon as practicable after receiving a Notice of Appeal, the HSE shall establish a CDT appeal committee (the “Appeal Committee”) to process the Service Provider’s appeal.

- 8.7.4. The Appeal Committee shall consist of three (3) suitably qualified persons comprising:
- 8.7.4.1. the Chairman, who shall be a Barrister or Solicitor of not less than five (5) years standing;
 - 8.7.4.2. a person nominated by the HSE; and
 - 8.7.4.3. a person nominated by the Service Provider;
- 8.7.5. The Chairman shall have discretion as to the conduct of the appeal proceedings and in particular shall:
- 8.7.5.1. Establish the timetable and procedure for the proceedings;
 - 8.7.5.2. If required, direct the extent, form and time limits applying to any documentary submissions to be served in the proceedings;
 - 8.7.5.3. Decide the order of appearance of persons appearing before the Appeal Committee;
 - 8.7.5.4. Permit the Service Provider or the HSE's representatives to appear in person, or to be represented, and/or assisted by another person;
 - 8.7.5.5. Hear, if he/she thinks fit, any person who is not a party to the proceedings; and
 - 8.7.5.6. Issue such other particular directions as are necessary for the efficient and orderly conduct of the proceedings.
- 8.7.6. Both parties shall have a right to legal representation during the appeal proceedings.
- 8.7.7. Any questions arising before the Appeal Committee shall be decided by the majority of the members of the Appeal Committee.
- 8.7.8. The Appeal Committee shall complete its deliberations with all practicable speed.
- 8.7.9. The Appeal Committee, shall, having considered the submissions made by both parties, issue its findings in writing simultaneously and by the same method to both parties. The Appeal Committee's findings may confirm, vary, alter or rescind the action proposed to be taken by the HSE under Clause 8.6.7.3.
- 8.7.10. Where a finding of the Appeal Committee is that the Agreement be terminated, the HSE shall notify in writing, within seven (7) days of receipt of the Appeal Committee's findings, the Service Provider that the Agreement shall terminate after the expiration of a further period of fourteen (14) days.

8.7.11. The reasonable fees, costs and expenses of the Appeal Committee and the costs of the venue for any hearing in the Appeal Committee proceedings shall be borne by the HSE. In all other respects, each party shall bear its own costs and expenses of its participation in the Tribunal proceedings.

8.8 Discretion to Notify the Irish Dental Council

8.8.1. The HSE may, in its discretion, notify the Irish Dental Council in writing of any sanction, decision or finding made or imposed under this Schedule 8.

8.8.2. The HSE may at the request of the Registrar of the Irish Dental Council, supply such particulars to the Registrar as may be necessary for the Irish Dental Council to consider the matter further.

