

Primary Dental Co-care Pilot Scheme for Adolescents
Terms and Conditions of Agreement with Private Dentist

1. Definitions and Interpretation

- 1.1 The following expressions when used in the Agreement have the meanings assigned to them below, unless otherwise defined therein or the context otherwise requires:

<i>“Agreement”</i>	means the agreement made by the Government with a Private Dentist on the terms and conditions set out in the following: <ul style="list-style-type: none">(i) these Terms and Conditions of Agreement for Private Dentist;(ii) the Application Form submitted by a Registered Dentist and accepted by the Government.
<i>“Application Form”</i>	means the online application form for enrolment in the PDCC completed on the eHealth platform online.
<i>“Authorised User”</i>	means any person appointed by the Private Dentist to access and use the IT Platform for and on behalf of him for the purpose of assisting him to perform the PDCC Services.
<i>“Confidee”</i>	has the meaning given to the term in Clause 7.1 below.
<i>“Confidential Information”</i>	has the meaning given to the term in Clause 7.1(a) below.
<i>“Co-Payment”</i>	has the meaning given to the term in Clause 4.4 below.
<i>“Council”</i>	has the meaning ascribed to “Council” under Section 2 of the DRO.
<i>“Department of Health”</i>	means the Department of Health of the Government.
<i>“DRO”</i>	means Dentists Registration Ordinance (Cap. 156 of the laws of Hong Kong)
<i>“eHealth”</i>	means the Electronic Health Record Sharing System of the Government, an IT system for the collection, storage, sharing and retrieval of health-related data of an individual among healthcare providers including registered dentists and other healthcare professionals for healthcare related purposes.

<i>“Eligible Person”</i>	<p>means a person who is eligible to enrol in the PDCC for receiving the subsidised scope of PDCC Services according to the following criteria which may be amended or modified by the Government from time to time:</p> <p>(a) be: (i) a holder of a valid Hong Kong Identity Card within the meaning of the Registration of Persons Ordinance (Cap. 177 of the laws of Hong Kong), unless he/she is a holder of the Hong Kong Identity Card by virtue of a previous permission to land or remain in Hong Kong granted to him/her and such permission has expired or ceased to be valid; or (ii) a holder of a valid certificate of exemption within the meaning of the Immigration Ordinance (Cap. 115 of the laws of Hong Kong);</p> <p>(b) be aged 13 (or will reach the age of 13 in the calendar year the application to enrol in the PDCC is made) to 17, for the avoidance of doubt, a person will cease to be eligible once he reaches the age of 18; and</p> <p>(c) has enrolled in the eHealth.</p>
<i>“General Register”</i>	has the meaning ascribed to “General Register” under Section 2 of the DRO.
<i>“Government”</i>	means the Government of the Hong Kong Special Administrative Region of the People’s Republic of China. Reference to “Government” shall include its specified representative(s), assigns, successors-in-title and persons deriving title under them, regardless of whether or not any of these persons are mentioned separately in the relevant provisions.
<i>“Government Subsidy”</i>	has the meaning given to the term in Clause 4.1 below.
<i>“Hong Kong”</i>	means the Hong Kong Special Administrative Region of the People’s Republic of China.
<i>“IT Platform”</i>	means the IT system specified by the Government for the PDCC for the collection, storage, sharing and use of data (including clinical data) of the Scheme Participants.

<i>“Operation Manual”</i>	means the “PDCC Operation Manual for Private Dentists” issued by the Government, as amended and modified from time to time, on the operation of the PDCC.
<i>“PCD”</i>	means the “Primary Care Directory” as maintained by the Government.
<i>“PDCC”</i>	means the “Primary Dental Co-care Pilot Scheme for Adolescents” of the Government.
<i>“PDCC Services”</i>	has the meaning given to it in Clause 3.10 below.
<i>“PDCC Non-subsidised Items”</i>	has the meaning given to it in Clause 3.11 below.
<i>“Private Dentist”</i>	means the Registered Dentist whose application to enrol in the PDCC is accepted by the Government.
<i>“Registered Dentist”</i>	has the meaning ascribed to “registered dentist” under Section 2 of the DRO.
<i>“Scheme Participant”</i>	mean an Eligible Person who has successfully enrolled in the PDCC.
<i>“Subsidised Visit”</i>	means a subsidised dental consultation undertaken by a Scheme Participant under the PDCC pursuant to the Agreement.
<i>“Term”</i>	means the period contemplated in Clause 2 below.
<i>“Transaction Documents”</i>	<p>comprise the following:</p> <ul style="list-style-type: none"> (a) Application Form; (b) these Terms and Conditions of Agreement for Private Dentist; (c) “Undertaking and Declaration” executed by the Registered Dentist; (d) “Personal Information Collection Statement”; (e) “Authority for Payment to a Bank” <p>and “Transaction Document” shall mean any of them.</p>

1.2 In each of the Transaction Documents comprising the Agreement, unless otherwise provided or the context otherwise requires:

- (a) any word or expression to which a specific meaning has been attached in any Transaction Document shall bear such meaning whenever it may appear in all Transaction Documents;
- (b) words importing the singular include the plural and vice versa and words importing a gender include all other genders;
- (c) reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended by any subsequent enactment, order, regulation or instrument;
- (d) reference to a statute includes all subsidiary legislation made under the statute;
- (e) reference to any person shall include any individual, firm, body corporate or unincorporate (wherever established or incorporated);
- (f) reference to a day refers to a calendar day; reference to a month or a monthly period refers to a calendar month; and reference to a year or an annual period refers to a calendar year;
- (g) reference to a section, clause, sub-clause, paragraph, sub-paragraph, appendix or attachment by number or by letter in a Transaction Document shall be construed (unless the context otherwise requires) as a reference to the section, clause, sub-clause, paragraph, sub-paragraph, appendix or attachment of that number or letter contained in that Transaction Document;
- (h) references to time and dates shall be construed as Hong Kong time and dates;
- (i) headings are inserted for convenience of reference only and shall not in any way vary, limit or extend the interpretation of any of the Transaction Documents;
- (j) any negative obligation imposed on any party shall be construed as if it were also an obligation not to permit or suffer the act or thing in question and any positive obligation imposed on any party shall be construed as if it were also an obligation to procure that the act or thing in question be done; and
- (k) the words “include” and “including” shall be construed without limitation to the words following.

2. Term

The Agreement shall take effect commencing from the date of the notification in writing issued by the Government notifying the Private Dentist that his application for enrolment in the PDCC has been accepted by the Government subject to termination in accordance with the provisions of the Agreement.

3. Obligations of the Private Dentist

Obligations to the Government

3.1 During the Term, the Private Dentist shall:

- (a) maintain the necessary infrastructure at his clinic(s) to enable access to the IT Platform for the purpose of the PDCC;
- (b) comply with all directions given by the Government from time to time in relation the Agreement or the PDCC;
- (c) take all necessary steps to procure that his employees, sub-contractor(s), agent(s) be made aware of and perform the obligations under the Agreement applicable to them, and shall comply with all directions imposed by the Government as specified in Clause 3.1(b) above;
- (d) be responsible for the conduct of his employees, sub-contractor(s) or agent(s) whilst providing the PDCC Services to Scheme Participants and shall ensure that he does not, and shall procure that his employees, sub-contractor(s) or agent(s) do not, solicit or accept any advantage, money or gifts from Scheme Participants, or offer any advantage, money or gifts to anyone to influence the operation of the PDCC, whilst deployed to assist the Private Dentist to provide the PDCC Services;
- (e) notify the Government immediately if:
 - (i) he is the subject of any inquiry by the Council under Section 18 of the DRO;
 - (ii) his name is being removed from the General Register by the Council under Section 15(3), 15A(1) or 18 of the DRO;
 - (iii) he is being reprimanded by the Council under section 18 of the DRO;
 - (iv) he has been sentenced to any other order by the Council under section 18 of the DRO;

- (v) he ceases to operate/practise in the address of the premises named in the Application Form intended to be the premises where he would provide the PDCC Services to the Scheme Participants under the PDCC;
- (vi) he ceases to be listed in the PCD;
- (vii) he ceases to be enrolled in the eHealth;
- (f) immediately report to the Government any clinical incidents or complaints of clinical incidents or professional misconduct in accordance with the reporting requirements and procedures as set out in the Operation Manual and submit written reports and take other follow-up actions (including meeting any deadlines) in respect of the reported incident or complaint as directed by the Government to the satisfaction of the Government;
- (g) allow the Government to conduct site visits and examine business transactions and medical records kept by him in respect of Scheme Participants and shall cooperate with the Government as reasonably required on necessary administration and audit of the PDCC and its evaluation;
- (h) timely update his particulars and information provided by him in the Application Form in accordance with the procedures set out in the Operation Manual; and
- (i) comply with the requirements, recommendations / and best practices set forth in the document “Public-Private Partnership Programmes for Healthcare Services – Corruption Prevention Guide for Service Providers” issued by the Independent Commission Against Corruption of the Government from time to time (as at the date hereof available at https://www.chp.gov.hk/files/pdf/corruption_prevention_guide_on_healthcare_service_providers_eng.pdf) and adopt the recommended practices set out therein where applicable.

IT Platform

3.2 The Private Dentist shall perform his obligations under the Agreement via the IT Platform where appropriate. Such performance shall include, but not be limited to:

- (a) taking Scheme Participants’ attendance;
- (b) verification of eligibility of Scheme Participants;
- (c) input of service data including but not limited to clinical and radiographic findings, diagnosis, dental services and treatment provided, and questionnaire data as required under the PDCC; and

- (d) input of payment checkout information including Co-Payment and PDCC Non-subsidised Items during Subsidised Visit(s).

3.3 The Private Dentist shall not, and shall procure each of the Authorised Users not to:

- (a) print, download or transfer Scheme Participants' information and/or records from the IT Platform or use such printed records except for purposes permitted by the Government; or
- (b) download or take photographs of any Scheme Participant's information and/or records from the IT Platform,

unless it is so required or permitted by the laws of Hong Kong, sanction of the courts of Hong Kong, or the consent from the parent or legal guardian of the Scheme Participant has been obtained.

3.4 The Private Dentist shall:

- (a) not rely solely on the IT Platform in any diagnosis or other dealings with Scheme Participants, but shall carry out all necessary dental and other investigations and/or examinations of the Scheme Participant to reach his own diagnosis; and
- (b) provide appropriate professional advice where necessary.

3.5 The Private Dentist shall, and shall procure that each of the Authorised Users, interpret the data on the IT Platform with professional knowledge and skills, taking into account his knowledge and assessment of the Scheme Participant's history and condition.

3.6 The Private Dentist acknowledges and agrees that:

- (a) the IT Platform is not intended to provide professional advice and he shall not rely upon such in that regard and only use such as a reference or guidance tool only;
- (b) the Government may keep an audit log of access to, use and printing of Scheme Participants' information and/or records on the IT Platform by the Private Dentist and/or the Authorised Users and the Government may audit such access, use and printing during or after the access period;
- (c) the Government's representatives shall be allowed access to records on the IT Platform and audit log mentioned in 3.6 (b) for inspection, verification and copying from time to time upon reasonable notice; Each Private Dentist shall, and shall procure the Authorised Users to assist the Government on resolving any apparent irregularity identified or discovered in the audit log or questions that the Government may raise from the log;

- (d) the IT Platform may be updated and modified from time to time and at the time of access, the data on the IT Platform is only a computer generated segment (but not the whole) of the Scheme Participant's health records and may not be up to date at the time of each access;
- (e) data on the IT Platform sent over the Internet cannot be guaranteed to be completely secured and the Government will not be responsible for any loss, damage or expense incurred or suffered by the Private Dentist or the Authorised Users as a result of any delay, loss, diversion, alteration or corruption of any information on the IT Platform provided by the Government over the Internet;
- (f) the data available on the IT Platform is provided on "as is" basis without warranty or representation of any kind, express or implied being given by the Government as to any aspect of the IT Platform or any data held within it;
- (g) the Government shall not be liable to any Private Dentist or any of his employees, sub-contractor(s) or agent(s) in any manner for any direct, indirect, special or consequential damages arising or claimed to be arising out of the PDCC or the IT Platform or any act or omission of the Government under the Agreement. The Private Dentist shall be liable for any errors or omissions in the information he provides onto the IT Platform and for any loss or damages suffered by the Government for any negligence or misuse of the IT Platform by the Private Dentist or any of his employees, sub-contractor(s) or agent(s); and
- (h) without prejudice to other rights which the Government may have, the Government shall be entitled to remove any Authorised User's access to the IT Platform in case of the Private Dentist's non-compliance with the obligations set out in this Clause 3.

3.7 During the Term the Private Dentist shall comply with the laws of Hong Kong including the Personal Data (Privacy) Ordinance.

Obligations to the Scheme Participant

3.8 From a date to be prescribed by the Government in writing, the Private Dentist may enrol any Eligible Person in the PDCC. The Private Dentist shall carry out the enrolment in accordance with the procedures set out in the Operation Manual and take all reasonable steps to ensure:

- (a) such person has fulfilled the eligibility criteria of Eligible Person;
- (b) his parent(s) or guardian(s) understood the rights and entitlements of such Eligible Person under the PDCC; and

- (c) his parent(s) or guardian(s) agreed to give and has given his consent to the Private Dentist to enrol such Eligible Person in the PDCC.

3.9 The Private Dentist shall accept the application of an Eligible Person for enrolment in the PDCC unless the Private Dentist has given prior written notification to and accepted by the Government to not accept further enrolment of Scheme Participants.

3.10 In respect of every Scheme Participant, the Private Dentist shall provide at least one (1) Subsidised Visit to the Scheme Participant each calendar year as long as such Scheme Participant remains eligible at the time of the Subsidised Visit at which he shall carry out or perform the following tasks/duties as set out below (“**PDCC Services**”) in accordance with the latest edition of the Operation Manual during Subsidised Visit:

- (a) obtain the consent of the Scheme Participant and his parent(s) / guardian(s) for the Scheme Participant to receive dental check-up and/or other dental treatment(s) under the PDCC;
- (b) provide dental check-up to the Scheme Participant and record the medical information, oral health risk assessment, intra- and extra-oral status information, and any other relevant oral health information of the Scheme Participant;
- (c) if the Private Dentist sees fit from his professional judgement, provide dental scaling to the Scheme Participant;
- (d) if the Private Dentist sees fit from his professional judgement, provide fluoride application to the Scheme Participant as a risk-based follow-up procedure;
- (e) provide personalised self-care advice on oral care and correlation between the personal lifestyle habits/choices and oral health to the Scheme Participant; and
- (f) provide a report and explain such to the Scheme Participant including the oral health risk, oral conditions of and treatment provided to the Scheme Participant.

In the event that the tasks/duties set out in Clause 3.10(c) and/or 3.10(d) are not provided based on his professional judgement, the Private Dentist should input the reasons (e.g. the health condition of the Scheme Participant is not fit for, or the Scheme Participant himself objects or refuses otherwise to receive the services covered by the tasks/duties) in the IT Platform.

PDCC Non-subsidised Items provided in the course of a Subsidised Visit

3.11 Based on the result of dental check-up as stated in Clause 3.10(b), the Private Dentist may recommend, in his professional judgment, the following items (“**PDCC Non-subsidised Items**”) to the Scheme Participant:

- (a) periapical X-ray, bitewing, Orthopantomogram (OPG), filling with one surface and non-surgical extraction; and
- (b) other examination(s)/treatment(s) for the Scheme Participant in his professional judgment.

3.12 The Private Dentist shall, according to the time frame set out in the Operational Manual, inform in advance the Government of:

- (a) the fees for the provision of each PDCC Non-subsidised Item set out in Clause 3.11(a) he intends to charge a Scheme Participant in the Subsidised Visit and
- (b) any change of the fees chargeable for any of the PDCC Non-subsidised Items.

For the avoidance of doubt, the Private Dentist is not required to inform the Government of the fees for the provision of PDCC Non-subsidised Items which are not covered by Clause 3.11(b) and any changes to the amount of these PDCC Non-subsidised Items.

3.13 The Private Dentist may provide the PDCC Non-subsidised Item(s) to the Scheme Participant and charge for the same during the course of a Subsidised Visit provided that he shall:

- (a) have informed and explained to the Scheme Participant and his parent(s) / guardian(s) why he considers such PDCC Non-subsidised Item(s) are suited to be provided for such Scheme Participant in his professional judgement and fees chargeable by him for providing such PDCC Non-subsidised Items to the Scheme Participant;
- (b) have obtained the consent of the parent(s) / guardian(s) the Scheme Participant for provision of such items; and
- (c) input the details of the such PDCC Non-subsidised Items provided to Scheme Participant and fees charged by him via the IT Platform.

3.14 The Government shall be entitled to disclose the fees of the PDCC Non-subsidised Items under Clause 3.11(a) chargeable by each Private Dentist to the public in accordance with the latest edition of the Operation Manual.

4. Government Subsidy and Co-Payment

Government Subsidy

4.1 In consideration of the Private Dentist's due and proper performance of all its obligations in accordance with all terms and conditions of the Agreement, and subject to the Annual

Maximum (see below) and all and any set-off, deductions or withholding subject to the terms and conditions of the Agreement, the Government shall pay the Private Dentist for the provision of PDCC Services in each Subsidised Visit to any Scheme Participant under his care in accordance with the Agreement a fee (“**Government Subsidy**”) which is as follows:

- (a) if all of the services as required under Clause 3.10 OTHER THAN dental scaling is performed at the Subsidised Visit, HK\$50;
- (b) if all of the services as required under Clause 3.10, including dental scaling are performed (no matter whether the application of fluoride is performed or not) at the Subsidised Visit, HK\$200.

4.2 The Private Dentist’s entitlement to the fees per calendar year under Clause 4.1 shall be subject to a maximum amount (“**Annual Maximum**”) as shall be prescribed by the Government from time to time. The Annual Maximum is currently \$200.

4.3 The Private Dentist acknowledges and agrees that:

- (a) no payment will be made by or on behalf of the Government unless the Government has verified the Private Dentist’s claims to its satisfaction;
- (b) if a person is NOT a Scheme Participant on the day of a visit, any services provided by the Private Dentist to such person during that visit shall be considered as a private arrangement between the Private Dentist and the person. The Private Dentist shall not be entitled to any Government Subsidy for any services rendered to the Scheme Participant in such visit;
- (c) in order to lodge the claim for the Government Subsidy, the Private Dentist shall, and shall procure the Authorised Users to, follow the procedures as set out in the Operation Manual and demonstrate to the satisfaction of the Government via the IT Platform that the Private Dentist has fulfilled the obligations and provided the PDCC Services; and
- (d) he shall endeavour to submit claims for the Government Subsidy of a particular month within the first ten (10) days of the next month and shall not be later than two (2) months from the date on which he is eligible to make claim(s) for reimbursement. For avoidance of doubt, the date on which he is eligible to make claim(s) for reimbursement counts from the date all the components of PDCC Services set out in Clause 3.10 above are completed if all the components could not be completed in a single visit.

Subject to the Government’s verification and acceptance of the claim for Government Subsidy, the Government shall make payment for such claim within sixty (60) calendar days from the date on which the Government accepts such claim. For any disputed claims, the Government reserves the right to withhold payment until the issue is resolved.

Co-Payment Fee from Scheme Participant

- 4.4 Subject to the provisions below, the Private Dentist shall be entitled to charge the Scheme Participant a fee (“**Co-Payment**”) for the Private Dentist’s due performance of the PDCC Services. A Private Dentist shall only charge the Co-Payment which is equal to or less than the amount informed to the Government in a calendar year in respect of any Scheme Participant under his care.
- 4.5 The Private Dentist acknowledges that the Government is entitled to recommend the amount of Co-Payment chargeable for the provision of the PDCC Services and adjust and publicise the same from time to time. The current recommended Co-Payment is HK\$200.00.
- 4.6 The Private Dentist shall be entitled to determine the amount of Co-Payment he shall charge the Scheme Participant, which may be less than, the same or more than the Government recommended amount. The Private Dentist shall inform the Government the amount of the Co-Payment chargeable by him in the Application Form for enrolment in the PDCC and shall inform the Government of each change to the amount of the Co-Payment before it takes effect.
- 4.7 The Private Dentist may charge the Scheme Participant a Co-Payment specified in Clause 4.4 above. For the avoidance of doubt, the Private Dentist shall not charge the Scheme Participant a Co-Payment which is more than the amount informed to the Government and announced to be effective by the Government.
- 4.8 The Government shall be entitled to disclose to the public the Co-Payment determined by each Private Dentist as specified in Clause 4.4 above.
- 4.9 If the Scheme Participant has attended the Subsidised Visit and all of the services as required under Clause 3.10 OTHER THAN dental scaling at the Subsidised Visit, the Private Dentist may not charge the Scheme Participant a Co-Payment more than HK\$50.00 upon completion of all remaining items of the PDCC Services.
- 4.10 The Private Dentist shall be solely responsible for collecting the Co-Payment and any fees for his provision of the PDCC Non-subsidised Item(s) to the Scheme Participant in a Subsidised Visit. The Government shall not be liable to the Private Dentist for any non-payment or part thereof, for any reason whatsoever.

5. Sharing of Clinical Data and Provision of Personal Data

- 5.1 The Private Dentist shall promptly send to the Government via the IT Platform all data requested by the Government from time to time (including required data fields built into the IT Platform) in respect of the relevant Scheme Participant, to enable the Government to have access thereto and incorporate the same into its records. The Government will also place a copy of all sharable data (as defined in the Electronic Health Record Sharing System

Ordinance (Cap. 625 of the laws of Hong Kong)) obtained from the Private Dentist onto the eHealth.

- 5.2 In accordance with the terms and conditions as stated in the Personal Information Collection Statement, the Private Dentist consents to the Government to use his personal data in the registration of his enrolment in the PDCC.
- 5.3 The Private Dentist agrees to send to the Government all information (including his personal data) requested by the Government from time to time for the purpose of ascertaining the eligibility of the Private Dentist to enrol in the PDCC and his compliance with the Agreement.

6. Termination of Participation

Termination by the Private Dentist

- 6.1 The Private Dentist may terminate his participation in the PDCC at any time by giving not less than ninety (90) days' written notice to the Government. In such event, the Private Dentist shall:
 - (a) notify the affected Scheme Participants of such termination within ninety (90) days after he has written to the Government to terminate his participation;
 - (b) upon request of the Government, make available to the Government all relevant dental and medical records of the affected Scheme Participants in his possession or control.

Termination by the Government

- 6.2 Without prejudice to other provisions in the Agreement and to any other rights, actions or remedies available to the Government, the Government may at any time by written notice terminate forthwith the participation of a Private Dentist in the PDCC without entitling the Private Dentist to any compensation therefor if:
 - (a) the Private Dentist:
 - (i) is no longer included in the General Register (GR) to practise dentistry in accordance with the Dentists Registration Ordinance (DRO) (Cap. 156 of laws of Hong Kong) and/or does not hold a valid practising certificate;
 - (ii) is no longer enrolled as a healthcare provider (HCP) in the eHealth;
 - (iii) is no longer listed Primary Care Provider in the PCD or Primary Care Register (PCR) after its establishment;

- (iv) meet with any of the conditions as described under Clause 3.1(e) above; or
- (v) adhere to any provision of the Agreement;
- (b) the Government has reasonable grounds to believe that the Private Dentist has failed to provide healthcare services including but not limited to the PDCC Services or the optional services provided under the Agreement in a professional manner or has otherwise committed any professional misconduct or malpractice;
- (c) the Private Dentist fails to comply with any direction or requirement given by the Government in the form of written warning issued in relation to the PDCC;
- (d) the Government is of reasonable doubt that the Private Dentist has submitted any fraudulent claim for the Government Subsidy or has committed any offence under the Prevention of Bribery Ordinance (Cap. 201 of the laws of Hong Kong);
- (e) the Private Dentist has engaged or is engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security;
- (f) the continued engagement of the Private Dentist or the continued performance of the Private Dentist is contrary to the interest of national security;
- (g) the Government reasonably believes that any of the events mentioned in (e) and (f) above is about to occur

6.3 Notwithstanding anything herein to the contrary, the Government may terminate the participation of a Private Dentist in the PDCC or terminate the PDCC by giving not less than ninety (90) days' written notice to the Private Dentist. The Private Dentist shall not be entitled to any Government Subsidies for the PDCC Services rendered after the effective termination date.

6.4 Upon termination of the enrolment of a Private Dentist in the PDCC by the Government, the Private Dentist shall notify the affected Scheme Participants of such termination within thirty (30) days from the date of notice from the Government.

6.5 Immediately upon the Private Dentist ceasing to be enrolled in the PDCC, the Government shall have no obligation to pay for any visit made by a Scheme Participant on or after the date on which the Private Dentist so ceases.

6.6 The Private Dentist shall not be entitled to any Government Subsidies for the PDCC Services rendered to that Scheme Participant after the effective termination date.

7. Confidentiality and Data Protection

7.1 A Private Dentist (“**Confidee**”) shall have access to the Government’s Confidential Information (as defined below) and, being the Confidee, hereby undertakes and covenants with the Government that:

- (a) all information, drawings, specifications, documents, contracts, design materials and all other data (including without limitation any dental and medical records, personal particulars records and Personal Data (as defined in the Personal Data (Privacy) Ordinance (Cap. 486 of the laws of Hong Kong)) and materials of any nature (in or on whatever media) collected, generated, produced or accessible by the Confidee from the Government under the PDCC (including any data printed from the IT Platform) or which the Government have for the purposes of or in the course of the PDCC disclosed supplied made available or communicated to the Confidee, shall be treated as confidential information (collectively “**Confidential Information**”).
- (b) it shall not, and shall procure the Authorised Users shall not, during the continuance of the PDCC or at any time thereafter, disclose to any person any Confidential Information other than in performance of the Confidee’s duties and obligations under the PDCC or with the prior written consent of the Government. However, this shall not apply to the disclosure of any Confidential Information which:
 - (i) is already known to the recipient other than as a result of disclosure by the Confidee; or
 - (ii) is or becomes public knowledge other than as a result of disclosure by or fault of the Confidee.
- (c) The Confidee shall not, and shall procure the Authorised Users shall not, make use of, reproduce, sell or supply for unauthorised purpose any Confidential Information, other than in the performance of the Confidee’s duties and obligations under the PDCC or with the prior written consent of the Government.

7.2 Without limiting the generality of Clause 7.1 above, the Private Dentist shall procure his employees, sub-contractors and agents to:

- (a) only use the data in the IT Platform for the sharing of data between the Government and the Private Dentist for their continuation of care either in the public or the private sector or other related purposes (“**Purposes**”) and exercise reasonable care to protect Scheme Participant’s confidentiality at all times;
- (b) comply with all obligations under the law in relation to personal data including those under the Personal Data (Privacy) Ordinance (Cap. 486 of the laws of Hong Kong) (and

the data protection principles) in the handling, access, use, retention and security of the personal data on the IT Platform and shall not retain the personal data longer than is necessary for the PDCC and the Purposes;

- (c) not share their eHealth accounts with or disclose the passwords for such eHealth accounts with any persons;
- (d) ensure that the IT Platform and the personal data contained in and/or obtained from the IT Platform is protected against unauthorised or accidental access, processing or other use, and ensure that all access to the IT Platform shall be made at secure computer terminals with adequate security measures; and
- (e) immediately notify the Government if they suspect or find that the security or confidentiality of the IT Platform is compromised or breached, and shall cooperate with the Government in taking all reasonable steps to ensure and protect such security or confidentiality.

7.3 For the avoidance of doubt, the undertakings and obligations under this Clause 7 shall survive the expiration or termination of the PDCC and/or the Agreement.

8. Liability and Indemnity

8.1 The Private Dentist must maintain adequate and appropriate dental malpractice insurance cover/indemnity, and must be able to provide the relevant certificate to the Government upon request. In the event of a claim by any Scheme Participant, the Government reserves the right to seek indemnity or contribution from the Private Dentist and/or under his dental malpractice insurance cover/indemnity.

8.2 The Private Dentist shall indemnify the Government against all costs, claims, liabilities, damages, actions, losses and expenses of any kind which may be imposed on, incurred or suffered by the Government in any way relating to or arising out of his practice or the PDCC Services or other examinations/treatments provided by him hereunder, except that this indemnity shall not extend to any costs, claims, liabilities, damages, actions, losses and expenses arising solely from the wilful default or negligence of the Government.

8.3 No provision in the Agreement shall operate to restrict or limit any person's liability for death or personal injury caused by such person's negligence.

9. General

9.1 The Private Dentist shall be bound by and shall observe the terms and conditions of the Agreement as may be amended or varied by the Government at its discretion from time to time by prior reasonable notice, including without limitation by posting the varied Agreement on the website of the PDCC at

<https://www.communitydental.gov.hk/en/pdcc/professional.html>

- 9.2 The Private Dentist shall at all times act as an independent contractor, and not as an agent or employee of the Government (nor hold out the relationship between the Government and Private Dentist under the PDCC as being that of an agent or employee). The Private Dentist shall be solely responsible for the care of the Scheme Participants, including any diagnosis and treatment, and the Government shall have no liability in relation thereto whatsoever.
- 9.3 The Agreement is governed by the laws of the Hong Kong.
- 9.4 The application of the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the laws of Hong Kong) is expressly excluded and no person who is not a party to the Agreement shall be entitled to enforce any right or term of the Agreement pursuant to the Contracts (Rights of Third Parties) Ordinance.
- 9.5 The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.

10. Anti-bribery

The Private Dentist shall observe the Prevention of Bribery Ordinance (Cap. 201 of the laws of Hong Kong).

11. Severability

If any provision of the Agreement or its application to any circumstances shall, to any extent, be invalid, illegal or unenforceable, the remainder of the Agreement and the application of that provision to other circumstances shall not be affected thereby.

12. Governing Law

The Agreement shall be governed by and construed in accordance with the laws of Hong Kong.

13. Mediation

- 13.1 The Government and the Private Dentist shall first refer any dispute or difference arising out of or in connection with the Agreement to mediation in accordance with The Government of the Hong Kong Special Administrative Region Mediation Rules prevailing at the time.
- 13.2 If the said dispute or difference is not settled by mediation according to Clause 13.1 above, the Government and the Private Dentist may institute litigation in respect of the said dispute or difference. The Government and the Private Dentist agree that the courts of Hong Kong shall have exclusive jurisdiction in respect of the said dispute or difference.

- End -