

Dental Consultancy and Business Support UK

(DentalCaBS)

207/12 Easter Road

Edinburgh EH6 8LG

0131 208 4444

Agreed terms

1 **INTERPRETATION**

1.1 The definitions and rules of interpretation in this clause apply in this agreement (unless the context requires otherwise).

“**Assigned Rights**” shall have the meaning set forth in clause 9.1;

“**Capacity**” means as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity;

“**Commencement Date**” means the date at the top of this document;

“**Confidential Information**” means information (whether or not recorded in documentary form, or stored on any magnetic or optical disk or memory) relating to the business, products, affairs and finances of the Company or its clients, customers, subcontractors or service providers, for the time being confidential to the Company or its clients, customers, subcontractors or service providers;

“**Engagement**” means the engagement of the Consultant by the Company on the terms of this agreement;

“**Fees**” means the fees specified in the Schedule;

“**Intellectual Property Rights**” means rights in or to patents, rights in or to inventions, copyright and related rights, rights in or to trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in or to designs, rights in or to computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;

“**Location**” shall have the meaning set forth in clause 3.6;

“**Pre-Contractual Statement**” means any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the Engagement other than as expressly set out in this agreement;

“**Schedule**” means the schedule to this agreement which shall be deemed to form part of this agreement as if set out in the main body of this agreement;

“**Services**” means the services to be provided by the Consultant in a consultancy capacity to the Company as set out in clause 3 and as more particularly described in the Schedule;

“**Termination Date**” means the date of termination of this agreement howsoever arising; and

“**Works**” means all prototypes, goods, software, data, records, reports, documents, papers, plans, drawings, designs, transparencies, photos, graphics or logos and all other tangible items, information or materials in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultant in the provision of the Services.

- 1.2 Clause headings shall not affect the interpretation of this agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.8 A reference to this agreement is a reference to this agreement as varied or novated (in each case, other than in breach of the provisions of this agreement) at any time.

1.9 References to clauses are to the clauses of this agreement, and a reference to the Schedule is a reference to the Schedule to this agreement.

1.10 Any phrase introduced by the terms “**including**”, “**include**”, “**in particular**” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 TERM OF ENGAGEMENT

2.1 The Company shall engage the Consultant to provide the Services and the Consultant shall provide the Services on the terms of this agreement.

2.2 The Engagement shall commence on the Commencement Date and shall continue unless and until terminated:

2.2.1 as provided by the terms of this agreement; or

2.2.2 by either party giving to the other not less than [INSERT PERIOD] prior written notice.

3 SERVICES

3.1 During the Engagement the Consultant shall:

3.1.1 provide the Services with all due care, skill and ability and in accordance with best practice applicable to the field to which the Services relate;

3.1.2 follow all directions of the Company given in connection with the provision of the Services;

3.1.3 promptly provide to the Company all such information, materials and other deliverables as it may reasonably require in connection with matters relating to the provision of the Services.

3.2 The Engagement shall consist of the provision of the Services by the Consultant to the Company for 1 (3.5 hours) day for Dental Software configuration followed by 1 hours training for chosen team members that are employed or working for the practice owner via self employed contract only.

3.3 If the Consultant is unable to provide the Services due to ill health or accident he/she shall advise the Company of that fact as soon as reasonably practicable and shall provide such evidence of his/her illness or injury as the Company may reasonably require. The

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Consultant shall not be deemed to be in breach of this agreement where the Consultant is prevented from performing his/her obligations due to ill health or accident.

3.4 Unless the Consultant has been specifically authorised to do so by the Company in writing, the Consultant shall not:

3.4.1 have any authority to incur any expenditure in the name of or for the account of the Company; or

3.4.2 hold himself/herself out as having authority to bind the Company.

3.5 The Company shall provide or procure the provision of to the Consultant [such office and information technology facilities and equipment and such access to the systems of the Company as the Consultant requires to enable the Consultant to provide the Services] [INSERT OTHER FACILITIES TO BE PROVIDED].

3.6 The Services shall be provided at [INSERT LOCATION] ("**Location**").

3.7 The Consultant shall exercise all reasonable care for health, safety and security when at the Location where the Services are provided, shall comply with all health, safety, security and workplace procedures from time to time in force at the premises where the Services are provided and shall report to the Company any unsafe working conditions or practices at such premises.

4 FEES

4.1 In consideration of the provision of the Services during the Engagement, the Company shall pay to the Consultant the Fees.

4.2 The Fees shall be paid in the manner set out in the Schedule.

4.3 The Company shall be entitled to set off any amounts due from the Consultant to the Company against the Fees due to the Consultant hereunder.

4.4 If the Company is required by law to make any deduction or to withhold any part of any amount due to the Consultant hereunder and pay such amount to a third party, the Company will give to the Consultant proper evidence of the amount deducted or withheld and payment of that amount to the relevant third party, and will take reasonable steps to enable or assist the Consultant to claim exemption from or, if that is not possible, to obtain a credit for the amount deducted or withheld under any applicable double taxation or other agreement from time to time in force.

5 EXPENSES

The Company shall reimburse all reasonable expenses properly and necessarily incurred by the Consultant in the course of the Engagement, subject to production of receipts or other appropriate evidence of payment.

6 OTHER ACTIVITIES

Nothing in this agreement shall prevent the Consultant from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during the Engagement provided that such activity does not cause a breach of any of the Consultant's obligations under this agreement.

7 CONFIDENTIAL INFORMATION

7.1 The Consultant acknowledges that in the course of the Engagement he/she will have access to Confidential Information. The Consultant has therefore agreed to accept the restrictions in this clause 7.

7.2 The Consultant shall not (except in the proper course of his/her duties) either during the Engagement or at any time after the Termination Date, use or disclose to any person any Confidential Information. This restriction does not apply to:

7.2.1 any use or disclosure of Confidential Information authorised in writing by the Company or required by law; or

7.2.2 any information which is already in, or comes into, the public domain otherwise than through the Consultant's unauthorised disclosure.

8 DATA PROTECTION

The Consultant consents to the Company holding and processing data relating to him/her for legal, personnel, administrative and management purposes.

9 INTELLECTUAL PROPERTY

9.1 The Consultant hereby assigns to the Company (by way of present and future assignment):

9.1.1 all Intellectual Property Rights created or otherwise resulting from the provision of the Services by the Consultant; and

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- 9.1.2 all rights (including all Intellectual Property Rights) in or relating to the Works;
- to the fullest extent permitted by law, such rights being for the purposes of this agreement referred to as the "**Assigned Rights**".
- 9.2 Insofar as the Assigned Rights do not so vest in the Company automatically by operation of law or under this agreement, the Consultant holds legal title to such rights in trust for the Company.
- 9.3 The Assigned Rights and the Works shall be deemed to be Confidential Information for the purposes of this agreement.
- 9.4 The Consultant undertakes:
- 9.4.1 not to register nor attempt to register any of the Assigned Rights (or title thereto) unless requested to do so by the Company;
- 9.4.2 at the cost of the Company to do all acts necessary to confirm that absolute title in all Assigned Rights has passed, or will pass, to the Company; and
- 9.4.3 not to give permission to any third party to use any of the Assigned Rights or the Works whether during the Engagement or thereafter.
- 9.5 The Consultant waives any moral rights in the Works to which he/she is now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, including (but without limitation) the right to be identified, the right of integrity and the right against false attribution, and agrees not to institute, support, maintain or permit any action or claim to the effect that any treatment, exploitation or use of the Works infringes the Consultant's moral rights.
- 9.6 The Consultant acknowledges that no further remuneration or compensation other than that provided for in this agreement is or may become due to the Consultant in respect of the assignation of the Assigned Rights and/or the performance of his/her obligations under this clause 9 and the Consultant acknowledges and agrees that such remuneration and/or compensation is reasonable in the circumstances.

10 LIABILITY

10.1 Nothing in this agreement shall act to exclude the liability of a party for fraud, fraudulent misrepresentation, or death or personal injury arising due to a party's negligence.

10.2 Neither party shall be liable to the other party for any indirect, secondary or consequential loss howsoever caused.

11 TERMINATION

11.1 Notwithstanding the provisions of clause 2.2, either party may terminate the Engagement with immediate effect if at any time the other party:

11.1.1 commits any serious or repeated breach or non-observance of any of the provisions of this agreement; or

11.1.2 is declared bankrupt or makes any arrangement with or for the benefit of its creditors or becomes apparently insolvent or otherwise takes the benefit of any statutory provision or procedure for the time being in force for relief of insolvent debtors.

11.2 The rights of the parties under clause 11.1 are without prejudice to any other rights that they might have at law to terminate the Engagement or to accept any breach of this agreement on the part of the other party as having brought the agreement to an end. Any delay by either party in exercising its rights to terminate this agreement shall not constitute a waiver thereof.

11.3 Termination of this agreement shall not affect the rights and liabilities of the parties which are accrued at the Termination Date.

11.4 Termination of this agreement shall not affect the entry into force or continuance in force of any provision of this agreement which is intended either expressly or by implication to enter into force upon or continue in force following the Termination Date.

12 OBLIGATIONS UPON TERMINATION

12.1 On the Termination Date the Consultant shall:

12.1.1 immediately deliver to the Company all Confidential Information, all Works, all information and material (on whatever media and wherever located) relating to the business or affairs of the Company and all other property of

the Company which is in his/her possession or under his/her control; and

- 12.1.2 irretrievably delete any Confidential Information, all Works and all information and material (on whatever media and wherever located) relating to the business or affairs of the Company and all matter derived from such sources which is in his/her possession or under his/her control.

13 STATUS

- 13.1 The relationship of the Consultant to the Company will be that of independent contractor and nothing in this agreement shall render him/her an employee, worker, agent or partner of the Company and the Consultant shall not hold himself/herself out as such.
- 13.2 This agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant shall be fully responsible for the payment of any income tax, national insurance and social security contributions due in connection with and arising from the performance of the Services by and the receipt of the Fees by the Consultant.

14 NOTICES

- 14.1 Any notice given under this agreement must be in writing and signed by or on behalf of the party giving it and must be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at (in the case of the Company) its registered office for the time being and (in the case of the Consultant) his/her last known address. Any such notice shall be deemed to have been received:
- 14.1.1 if delivered personally, at the time of delivery; and
- 14.1.2 in the case of pre-paid recorded delivery or registered post, forty eight (48) hours from the date of posting.
- 14.2 In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post.

15 ENTIRE AGREEMENT AND PREVIOUS CONTRACTS

- 15.1 Each party on behalf of itself acknowledges and agrees with the other party that:

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- 15.1.1 this agreement constitutes the entire agreement and understanding between the Consultant and the Company and supersedes any previous agreement between them relating to the Engagement (which shall be deemed to have been terminated by mutual consent);
- 15.1.2 in entering into this agreement neither party has relied on any Pre-Contractual Statement;
- 15.1.3 the only remedy available to either party for breach of this agreement shall be for breach of contract in respect of the terms of this agreement and it shall have no right of action against any other party in respect of any Pre-Contractual Statement; and
- 15.1.4 nothing in this agreement shall operate to limit or exclude any liability for fraud.

16 VARIATION

No variation of this agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

17 SEVERANCE

If any court or competent authority finds that any provision of this agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this agreement shall not be affected. If any invalid, unenforceable or illegal provision of this agreement would be valid, enforceable and legal if some part of it were modified, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

18 GOVERNING LAW AND JURISDICTION

- 18.1 This agreement shall be governed by and construed in accordance with the law of Scotland.
- 18.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of Scotland over any claim or matter arising under or in connection with this agreement.

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