**IMPORTANT NOTICE TO MEMBERS**

**The data protection arrangements of individual members are a matter for those members and the Association are not in a position to advise or comment on individual cases.**

**In addition, the Association and its representatives are not legal advisors and, as stated in the following Model Agreement document, any person who intends using the agreement should take independent professional advice in relation to their specific circumstances.**

**May 2018.**

**ENDS**

DISCLAIMER

**The Irish Dental Association, its servants or agents do not accept any responsibility for any loss or damage occasioned by any person acting or refraining from acting as a result of the material in this document. Professional advice, including as appropriate legal, accountancy, taxation, actuarial and insurance advice should be sought independently.**

**In particular, you should ensure that the template agreement adequately covers the particular individual arrangements that exist within your practice. If the template is amended by you or your advisers (e.g. to include additional clauses or text or to remove some of the existing text), it is important that you seek your own professional advice to ensure that the amendments do not create unforeseen legal or other consequences.**

**The Irish Dental Association is not under any obligation to automatically update this document in the future to reflect future changes in law or practice.**

**Model Dental Practice Agreement with Data Processor**:

 **Definitions**

In the following agreement, the “***Dental Practice***” is the Data Controller known as “Controller”.

The “***Contractor”*** is known as the “Processor” and processes data on behalf of the Data Controller.

“Personal data includes any information relating to an identified or identifiable natural person”.

**AGREEMENT**

The [insert description] Dental Practice of [insert address] is the Data Controller (otherwise known as “Controller”), and

The [insert description/Contractor] of [insert address] is the Data Processor ( therwise known as the “Processor)

who are respectively the “Parties” to this Agreement.

**WHEREAS** the Parties agree the following:

In consideration of the Controller engaging the services of the Processor, the Processor shall process personal data of the Controller, which is necessary and relevant to perform the [IT maintenance and service] as detailed in its [service] contract in accordance with the following terms:

1. The Controller shall process personal data in accordance with applicable law and GDPR.
2. The Processor shall where it processes personal data on behalf of the Controller warrants that it takes such Technical and Organisational Security Measures as are required under law and the General Data Protection Regulation to protect the personal data from unlawful forms of processing. These will include a minimum level of protection set out in Appendix 1 of this Agreement.
3. The Processor shall have and maintain a register of processing activities in accordance with GDPR.

4 The Processor and its employees or agents shall only carry out such actions in relation to the personal data as are expressly authorised by the Controller, which is to process data which is necessary and relevant to perform the [**insert service contract].**

 5 The Processor agrees to maintain the personal data processed on behalf of the Controller confidential and not to disclose this to any third party and that the Processors employees or agents are subject to this obligation also. The Processor shall not use the personal data supplied by the Controller other than in connection with the provision of services to the Controller, during the term of the agreement for x years from y date and following cessation of this agreement.

6 The Processor shall not sub-contract any of its rights or obligations under this agreement without the prior written consent of the Controller.

7 The Controller shall have the right to audit the Processor to monitor compliance under this agreement.

8 The Data Processor shall provide all information requested by a data subject regarding processing activities to the Data Controller within 14 days of notification of a data access request by the Controller. The Parties shall where appropriate discuss an appropriate response where requested by the Data Protection Commissioner or Court for information.

9 The Processor shall assist the Controller in preparing data protection impact assessments in accordance with GDPR and prior consultation where required.

10 The Processor shall immediately notify the Controller if a personal data breach occurs that can lead to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to, personal data transmitted, stored or processed on behalf of the Controller.

11 The Processor shall make all reasonable efforts to identify the cause of a breach, to remedy and prevent this reoccurring.

12 The Processor shall indemnify the Controller against all claims, loss, destruction, damage, litigation, costs and indirect or consequential loss arising to any party as a result of breach of this agreement.

13 The Processor shall not transfer personal data outside the European Economic Area (EEA). Prior written authorisation must be obtained from the Controller if the Processor wishes to use storage solutions such as Dropbox where storage is outside the EEA.

14 The total aggregate liability of the Processor in contract, tort or otherwise for losses caused to the Controller from this agreement shall be the following **[insert]**

15 Nothing in this agreement will relieve the Processor of its direct responsibilities and liabilities under the GDPR.

16 Following termination of this agreement, the Processor shall at the direction of the Controller comply with any agreement made regarding return the personal data to the Controller or on receipt of instructions destroy this data, unless prohibited by law.

17 This agreement is governed by the law of the Republic of Ireland.

**Appendix 1**

**Legal requirements**

The Processor shall identify and comply with any specific security provisions and standards required in the Republic of Ireland by Data Protection law.

**Practical Security Measures**

The Processor shall give consideration to the following security measures:

* Information Security Management Systems
* Physical security
* Access control
* Security and Privacy Enhancing Technologies
* Awareness training and security checks in relation to personnel
* Incident/ Response management/ Business Continuity
* Audit controls/Due diligence

SIGNED on behalf of the Dental Practice

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

SIGNED on behalf of the Contractor

AND SIGNED AND SEALED IF LTD

COMPANY

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

WITNESS SIGNATURE

In the presence of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Occupation