

FORM OF AGREEMENT

WITH

**REGISTERED MEDICAL PRACTITIONERS FOR
PROVISION OF SERVICES**

TO CHILDREN UNDER 6 YEARS OLD

PURSUANT TO

**THE HEALTH
(GENERAL PRACTITIONER SERVICE)**

ACT 2014

(UNDER 6 YEAR OLDS)

RECITALS

- A. The Health Service Executive (“HSE”) is a statutory body created by the Health Act, 2004 to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. Its object 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 has the power, subject to its available resources and to any directions from the Minister for Health, to enter into arrangements with Medical Practitioners for the provision of health or personal social services on behalf of the HSE. The HSE is entering into this interim agreement with Medical Practitioners for the provision of GP Services free at the point of use to children aged under 6 years within the context of the Framework Agreement of June 2014.
- B. The Health (General Practitioner Service) Act 2014 provides the legislative basis for the provision without charge of a general medical and surgical service to persons aged under 6 years.
- C. The core of the Government Health Reform Programme, as set out in *Future Health - A Strategic Framework for Reform of the Health Service, 2012-2015* is the creation of a single tier health service, and encompassing universal primary care, with GP care free at the point of use for all.
- D. The HSE/Department of Health and the IMO are engaged in a process of negotiations under the Framework Agreement of June 2014 on a new GMS contract. Pending the completion of negotiations on a new GMS contract this interim contract, by agreement of the parties thereto, is being offered to suitably qualified Medical Practitioners in order to facilitate the introduction of GP care free at the point of use to Child Patients.
- E. Health and Wellbeing is a key pillar within the Reform Programme. *Healthy Ireland, a Framework for Improved Health and Wellbeing 2013-2025* provides a framework of action to achieve a greater emphasis on prevention, early intervention and to support keeping individuals and communities well. Primary Care has a key role to play in the delivery of these health gains across the population as manifested in the Periodic Assessments.

This interim contract provides an opportunity to commence the process of re-orientating the focus of General Practice toward prevention and health promotion in addition to diagnosis and treatment. It is well known that the majority of chronic conditions are related to a small number of lifestyle issues, which if modified could avoid these conditions. General Practice is centrally positioned to lead this approach.

The population will have access to free GP care, on a phased basis. This will be a key part of the overall reform of the way healthcare services are delivered in the community, with GPs working in teams with other Primary Care Professionals focussing on illness prevention and structured care of chronic conditions. Primary Care Teams will provide the foundation medical and non-medical care that people need, whether it is for health or social needs.

The provision of free GP services for children aged under 6 years represents the first phase in the provision of free GP care at the point of use for all. This document provides the contractual underpinning for the provision of free GP care to children aged under 6 years.

- F. The HSE and the Medical Practitioner wish to enter into a contract under which the Medical Practitioner will provide free General Practitioner Medical and Surgical Services in accordance with the provisions of this Agreement to persons aged under 6 years.
- G. Primary Care Teams and Networks provide the foundation for a new model of integrated care in Ireland. While progress has been made in the formation of Primary Care Teams, further work needs to be carried out with General Practice to ensure that Teams are efficient, integrated with General Practice and deployed in a manner that optimises their potential. The structural and contractual enablement of effective General Practice participation in Primary Care Teams, while beyond the scope of this interim Agreement, will be the subject of engagement with the Irish Medical Organisation as part of the wider review of GP contracts which is being carried out under the Framework Agreement.

- H. It is acknowledged that the Services provided pursuant to this Agreement are being provided in the context of an evolving health service which is in the process of developing new structures and arrangements. The overarching priority of the Health Service Executive is the provision of effective, safe, high quality health and personal social services; and this priority is a central theme of *Future Health*. The National Standards for Safer Better Healthcare approved by the Minister in June 2011 provide a roadmap for improving the safety, quality and reliability of healthcare. Both parties are committed to ensuring that the Services provided pursuant to this Agreement reflect the priority of patient safety and quality. The Medical Practitioner shall take an active approach toward the assurance of patient safety and the provision of high quality services by ensuring that services are organised and delivered in accordance with the National Standards for Safer Better Healthcare and underpinned by clinical effectiveness. Adherence to national clinical guidelines and engagement in clinical audit are key components of this clinical effectiveness agenda for the Medical Practitioner. This quality improvement approach promotes cost-effective healthcare that is evidence-based and consistent.
- I. Children First is Ireland's National Guidance for the protection and welfare of Children. The aim of Children First is to promote the safety and well-being of children. Professionals have an important part to play in promoting the safety and well-being of children. In the above context, both parties are committed to ensuring that the Services adhere to the principles and objectives of Child Care Legislation and of the Children First National Guidance and that at all times the safety and welfare of children is paramount.

DEFINITIONS AND INTERPRETATIONS

NOW IT IS HEREBY AGREED AS FOLLOWS:

- i. In this Agreement, the following terms shall have the following meanings unless the context otherwise provides:

“Agreement” means these terms and conditions, the Schedules and Appendices hereto and, to the extent applicable, circulars previously agreed by the Department of Health and the Irish Medical Organisation as part of the GMS contract. In the event of any inconsistency or conflict between the previously issued circulars and these terms and conditions, precedence shall be given to these terms and conditions, and in all cases any question of interpretation shall be resolved in a manner that gives effect to the provisions and stated objectives of these terms and conditions.

“Asthma Cycle of Care” means the provision of an enhanced service to Child Patients with a diagnosis of Asthma as described in **Clause 10.7** and **Appendix 2** of this Agreement.

“Authorised Representative” means the person nominated by the HSE to represent it for the purpose of applying the terms and conditions of this Agreement.

“Business Day” means any day other than Saturdays, Sundays, Public Holidays and Good Friday.

“Child Patients” means persons under the age of 6 who are eligible for general medical and surgical services pursuant to the provisions of the Health (General Practitioner Service) Act 2014 (or, as the context may require, the Parent(s)/Guardian(s) of the relevant child).

“Community Pharmacy Contractor” means a pharmacist holding a contract with the HSE for the provision of Community Pharmacy Services under the Health Act, 1970.

“Director General” means the Director General of the HSE and, save as followed by the words ‘in person’ includes any employee of the HSE to whom, from time to time, a function of the Director General has been delegated or sub-delegated in accordance with Section 16H of the Health Service Executive (Governance) Act 2013.

“Fees” means the fees, subsidies and allowances payable to the Medical Practitioner in accordance with **Clause 17**.

“Framework Agreement” means agreement signed between the Department of Health/ HSE and the IMO on 4th of June 2014.

“GP Contracts” means the ‘Agreement with Registered Medical Practitioners for the provision of services under section 58 of the Health Act, 1970 to persons with full eligibility’ (referred to as the ‘GMS Contract’) and the ‘Agreement with Registered Medical Practitioners for the provision of service to certain persons with limited eligibility under Section 58 of the Health Act 1970 as amended by the Health (Amendment) Act, 2005’ (referred to as the ‘GP Visit Card Contract’).

“Health Acts” means the Health Acts 1947 to 2014, as amended.

“Indemnity” means a policy of medical indemnity insurance or other indemnity arrangement against losses arising from claims in respect of civil liability incurred by a Medical Practitioner in respect of any act or omission of that Medical Practitioner arising from his/her practice as a Medical Practitioner.

“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.

“Medical Practitioner” means the relevant Medical Practitioner(s) [for this purpose relevant medical practitioner(s) has the meaning as set out in Section 5. 58C.(12) of the Health (General Practitioner Service) Act 2014] who has/have entered into this Agreement.

“Memorandum of Understanding” means the Memorandum of Understanding signed between the Department of Health/HSE and the IMO on 25th February 2015.

“Normal Contracted Surgery Hours” mean the 40 hours during which the Medical Practitioner commits to being available for consultations pursuant to this Agreement, as set out in the Medical Practitioner’s signed Form of Agreement.

“Normal/Routine Surgery Hours” means all hours the Practice Premises are scheduled to be open, which may include hours outside of the Normal Contracted Surgery Hours.

“PCRS” means the Primary Care Reimbursement Service.

“Periodic Assessments” means age based preventive checks focused on health and wellbeing and prevention of disease. The requirements of these Periodic Assessments will be subject to change on the basis of policy and evidence and any such revisions shall be introduced in accordance with the Framework Agreement.

“Practice Premises” means the premises meeting the requirements of **Clause 12** as specified in the Medical Practitioner’s Agreement with the HSE.

“Records” means the records required to be created and/or maintained by the Medical Practitioner, as further described in **Clause 14** herein.

“Relevant Representative Bodies” includes the Irish Medical Organisation and such other bodies as may be recognised by the HSE from time to time as being a representative body of medical practitioners. For the purposes of this Agreement, consultation with a recognised Representative Body shall not preclude the HSE from consulting individual Medical Practitioners or other stakeholders.

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

“the Minister” means the Minister for Health.

“the Services” means General Practitioner Medical and Surgical Services to be provided by the Medical Practitioner in accordance with the terms of this Agreement.

- ii. 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.
- iii. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- iv. Words importing the masculine gender shall include the feminine gender and vice versa.
- v. 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.
- vi. Any performance and compliance obligations imposed on the parties include the obligation to meet such obligations at their own cost.
- vii. Any obligation on the parties to keep records, data or information includes the obligation to keep them up to date and accessible.

1 PERSONS FOR WHOM SERVICES WILL BE PROVIDED

1.1 Pursuant to the Health (General Practitioner Service) Act 2014, the Medical Practitioner shall provide the Services, or arrange for the provision of Services, in accordance with this Agreement for:

1.1.1 All Child Patients whom he/she has accepted for inclusion on his/her panel of Child Patients and who have not been notified to him/her by the HSE as having ceased to be on his/her panel;

1.1.2 All Child Patients who have been assigned to him/her by the HSE in accordance with **Clause 3** and who have not been notified to him/her by the HSE as having ceased to be on his/her panel;

1.1.3 All Child Patients who present to him/her as temporary residents (as defined in **Clause 4**);

1.1.4 All Child Patients who present to him/her for emergency services (as defined in **Clause 5**).

2 ACCEPTANCE OF PATIENTS

2.1 The Medical Practitioner shall ordinarily accept on to his/her panel all Child Patients who so request. In the event of a Medical Practitioner not wishing to accept a Child Patient on to his/her panel, the Medical Practitioner, where so requested by the HSE, will give in confidence the reason for his/her decision to the HSE. Where the HSE is satisfied that a Child Patient has not succeeded in obtaining acceptance by a Medical Practitioner, the HSE may assign such a person to a Medical Practitioner in accordance with the provisions contained in **Clause 3**.

2.2 While the maintenance of the list of Child Patients shall remain at all times the responsibility of the HSE, the Medical Practitioner shall provide updates to the of any changes to his/her panel of Child Patients on account of births, deaths or other reasons.

3 HSE ASSIGNMENT OF A PATIENT

3.1 Where the application made to register a Child Patient has been unsuccessful in respect of all of the Medical Practitioners in the area in which the Child Patient resides, or at least three of those Medical Practitioners, the HSE may assign that Child Patient to a Medical Practitioner and that Medical Practitioner shall accept the Child Patient onto his/her panel. Unless the Director General directs otherwise, the assignment shall ordinarily be to

a Medical Practitioner who practises in the area in which the Child Patient resides.

3.2 Where an assignment is made to the Medical Practitioner, he/she may request a review of the assignment after six months.

3.3 Where the Agreement with the Medical Practitioner has been terminated or suspended, the HSE may assign Child Patients on his/her panel to another Medical Practitioner(s) with the consent of that practitioner until an agreement has been made with another Medical Practitioner in succession to the Medical Practitioner or the suspension has been terminated, as the case may be.

4 TEMPORARY RESIDENTS

4.1 A Child Patient who moves temporarily to and is resident in a place not ordinarily served by the Medical Practitioner on whose panel he/she is included and who does not, at the time of his/her arrival in that place, intend to remain there for a period exceeding three months, shall be regarded as a temporary resident. If his/her stay at that place extends to more than three months, his/her residence from the end of that period shall cease to be regarded as temporary.

5 EMERGENCY TREATMENT

5.1 The Medical Practitioner accepts responsibility within reason to provide, when available, within his/her area of practice, emergency services for cases arising from accidents or otherwise, of Child Patients not on his/her panel where he/she is summoned to give such services or where the Child Patient attends at his/her Practice Premises for such services. No such responsibility shall arise save where the Child Patient is unable to receive such treatment at that time from the Medical Practitioner on whose panel the Child Patient's name is included, or from his/her Deputy.

6 LIMITATION ON NUMBERS

6.1 The number of Child Patients whose names may be placed on the panel of the Medical Practitioner (or, in the case of a Practitioner who has Agreements with two or more areas within the HSE, the total of the numbers which may be placed on the panels for those areas) shall not, when aggregated with the Medical Practitioner's number of patients under the GMS Contract and the GP Visit Card Contract, exceed 2,200 save where the HSE, in exceptional circumstances, after consultation

Commented [A1]: Please note the contract has been colour coded as follows:

Blue indicates as existing GMS provision

Purple indicates a legislative, regulatory or professional requirement

Green indicates clauses inserted at insistence of IMO

Red indicates new provisions regarding scope of services etc.

Commented [A2]: This reflects the functionality under Circular 4/2012 which allows GP's to confirm their panel and Add or Remove Patients

Commented [A3]: This increase in the cap on panel size was at IMO's insistence to reflect extra population coming into the scheme

with the Irish Medical Organisation decides to apply a higher limit.

Where the Medical Practitioner holds or obtains a HSE appointment (i.e. performs a function for the HSE outside of the terms of this Agreement or a GP Contract), the HSE may specify a limit lower than 2,200 for the total number of patients.

7 TRANSFER TO ANOTHER MEDICAL PRACTITIONER

7.1 Where the Parent(s)/Guardian(s) of a Child Patient no longer wishes the Child Patient to attend the Medical Practitioner with whom he / she is registered, the Parent(s)/Guardian(s) may seek to have the Child Patient included on the panel of another Medical Practitioner by requesting the HSE for a transfer to another Medical Practitioner and the HSE shall arrange such transfer as soon as possible.

8 DISCONTINUANCE OF ACCEPTANCE OF A PATIENT BY THE MEDICAL PRACTITIONER

8.1 Where the Medical Practitioner requests the HSE to arrange to have a Child Patient (other than a Patient who has been assigned to him/her pursuant to Clause 3) removed from his/her panel, the HSE may ask for the reasons for such a request, which shall be provided in confidence by the Medical Practitioner. The HSE shall thereupon notify the Parent(s)/Guardian(s) of the Child Patient and supply them with information to enable them to apply for inclusion in the panel of another Medical Practitioner. On the patient being accepted by, or assigned to, another Medical Practitioner, his/her name shall be deleted from the panel of the original Medical Practitioner and that Medical Practitioner shall be so notified. The HSE shall arrange for action under this Clause 8 to be initiated within seven (7) days and to be completed with all practical speed. If, after the expiration of one month from the Medical Practitioner's request, the Child Patient's name has not been included on the panel of another Medical Practitioner, the HSE shall, unless there are substantial grounds for not doing so, assign him/her to a Medical Practitioner.

9 AVAILABILITY

9.1 In line with the objective of ensuring that the Services are provided in a patient-centered manner and that the medical needs of all Child Patients are to the fullest extent possible met in a primary care context, the Medical Practitioner's Normal Contracted Surgery Hours shall have regard to his/her Public

Patients' needs in the locality and he/she shall not amend them without agreement with the HSE.

9.2 The Medical Practitioner shall be routinely available for consultation at his/her Practice Premises and for domiciliary visiting for a total of 40 hours each week on five days or more in the week by agreement with the HSE (referred to as Normal Contracted Surgery Hours).

9.3 The Medical Practitioner shall by way of a notice outside the Medical Practitioner's Practice Premises and by whatever other appropriate means necessary, such as practice website (if applicable), make known his/her Normal/Routine Surgery Hours.

9.4 The Medical Practitioner shall make known to the HSE his/her Normal/Routine Surgery Hours (including his/her Normal Contracted Surgery Hours). For the avoidance of doubt, the Medical Practitioner shall not amend Normal Contracted Surgery Hours without the prior agreement of the HSE. Furthermore, the Medical Practitioner shall provide prior notification to the HSE of any changes to his/her Normal/Routine Surgery Hours.

9.5 The Medical Practitioner shall make suitable arrangements to enable contact to be made with him/her or his/her Locum/Deputy outside normal hours for urgent cases, and shall also make such arrangements known by way of a notice outside his/her Practice Premises and by whatever other appropriate means necessary, such as on the practice website (if applicable).

10 SCOPE OF SERVICES

10.1 On behalf of the HSE, the Medical Practitioner shall provide for Child Patients all proper and necessary services to meet patient needs which are of a kind usually undertaken by a General Practitioner and/or his/her Staff in a general practice setting, and not requiring special skill or experience of a degree or kind which General Practitioners cannot reasonably be expected to possess. The Services required to be provided shall include health promotion and prevention initiatives as outlined in Clauses 10.6 and 10.7 hereunder. It is acknowledged that the Services required to be provided include certain items for which specific payments shall be made by the HSE as set out in Schedule 1 to this Agreement.

10.2 The Medical Practitioner shall take an active approach toward the assurance of patient safety and the provision of high quality services and ensure, as far as possible, that the services and treatments provided are safe and comply

Commented [A4]: While this is new, reflects modern practice

Commented [A5]: This reflects the current obligation on the GP under the GMS.

Commented [A6]: The IMO insisted that the visits under this provision could be opportunistic in nature.

with the professional standards that apply to the Medical Practitioner and his/her staff as determined by the relevant Professional Regulatory Body.

- 10.3 The Medical Practitioner shall maintain a population register of Child Patients registered on his/her panel. This register will include relevant demographic and clinical information relating to the prevention and management of illness. This register will be in accordance with the requirements to be set out by the HSE.
- 10.4 In the provision of services to Child Patients under this Agreement, the Medical Practitioner shall liaise with and/or refer to other health and social care professionals, where appropriate.
- 10.5 In the interest of patient care and having regard to patient needs, the Medical Practitioner may refer to another Medical Practitioner for a second medical opinion. Payment for such referrals shall be in accordance with the rate currently payable under the GMS contract.
- 10.6 The Medical Practitioner shall take an active approach toward promoting health and preventing disease through the provision of Periodic Assessments to Child Patients. On completion of such assessments, the Medical Practitioner shall provide a data return to the HSE in accordance with the agreed dataset as set out in **Appendix 1** to this Agreement. Assessments will involve the recording of age, gender, weight and height, and plotting on a centile chart at ages two and five, and taking appropriate follow-up action, including where appropriate, provision of health promotion advice, brief intervention and support, or referral to specialist services. During the assessments, the Medical Practitioner shall, where practicable, record whether a child lives in a smoke free household or not with a view to providing advice on smoking cessation.
- 10.7 Subject to the provisions of **Clauses 10.1** and **10.3** above, the Medical Practitioner shall maintain a register of Child Patients with a diagnosis of Asthma and shall provide services to such patients in accordance with the agreed Cycle of Care as set out in **Appendix 2** to this Agreement. The Medical Practitioner shall provide a data return to the HSE in accordance with the agreed dataset as also set out in **Appendix 2** to this Agreement.
- 10.8 In providing the Services, the Medical Practitioner shall:
- 10.8.1 Accept clinical responsibility for Child Patients on his/her panel who need medical treatment and treat them or, when the clinical condition is such that

it is appropriate to transfer them to appropriate Consultant care, do so and accept clinical responsibility for them on becoming aware of their discharge from Consultant care.

- 10.8.2 Use the most efficient and economic forms of treatment or care consistent with the needs of his/her patients.
- 10.8.3 Ensure that no discrimination is exercised between Child Patients and other patients (including private patients) and take reasonable steps to ensure that no such discrimination is perceived.
- 10.8.4 Furnish in relation to Child Patients whom he/she has examined and for whom he/she is providing Services, a certificate in relation to any illness noticed during the examination which is reasonably required by the Child Patient's Parent(s)/Guardian(s). Certain other certificates, such as insurance or assurance policies, school attendance notes/certificates are not covered by this contract. The scope of services under this Agreement does not include all services provided by General Practitioners. The following non-exhaustive list is indicative of some of the work which is not covered by this Agreement: travel vaccinations, paediatric phlebotomy, passport / identity reports / letters, crèche reports, utilities reports / letters, insurance medicals / reports, school attendance notes / certificates, sports medicals / reports, medico-legal reports, drug kardexes for state or private institutions, certificates / letters in support of applications for services under the Social Welfare Acts, certain TUSLA related work such as pre-placement medical examinations / reports, fostering and adoption reports. A framework for such services will be agreed between TUSLA, the IMO and the HSE.
- 10.8.5 Ensure that Services are made available at the Medical Practitioner's approved Practice Premises during Normal/Routine Surgery Hours where the appropriate facilities, diagnostic tools and supports are available. The Medical Practitioner may in the

Commented [A7]: IMO secured removal of Primary Care Teams and clause reflects what GP liaison and reference to Allied Health Professionals

Commented [A8]: Clause reflects GP ability to seek second opinion, as per GMS

Commented [A9]: These consultations may be opportunistic.

Commented [A10]: This exclusion clause was included at the IMO's insistence.

reasonable exercise of his/her judgement, having given due consideration to all relevant circumstances, provide a domiciliary consultation where he/she deems it appropriate for the Child Patient in accordance with **Clause 10.1**.

10.8.6 Co-operate with the modernisation of diagnostic services, including the introduction of pilot schemes, subject to agreement with individual Medical Practitioners, following consultation with the IMO.

11 PERSONS WHO PERFORM THE SERVICES

11.1 Save where otherwise permitted in accordance with this **Clause 11**, the Services shall be provided personally by the Medical Practitioner, supported as appropriate by suitably qualified Staff including the Practice Nurse.

11.2 The Medical Practitioner may provide the Services through a suitably qualified locum/deputy/assistant who is a registered Medical Practitioner (not being a Medical Practitioner in respect of whom an Agreement for the provision of Services pursuant to the Health (General Practitioner Service) Act 2014 (or any other publicly funded health sector contract) is under suspension or has been terminated in accordance with **Clauses 1 & 5 of Schedule 2**) or through an arrangement set up by the Medical Practitioner(s) and agreed by the HSE for the purposes of providing out-of-hours services (by such registered Medical Practitioners).

11.3 Where the Medical Practitioner is unable to provide the Services directly due to long term sickness or other absence, the Medical Practitioner must arrange a locum/interim arrangement to ensure continuity of services for Patients. Where the absence is likely to continue for more than six months, the locum/interim arrangement, which the Medical Practitioner shall put in place, must be approved by the HSE. Save in exceptional circumstances as agreed with the HSE, the locum's name must be included in the Specialist Division of the Register of Medical Practitioners established under section 43(2) (b) of the Medical Practitioners Act, 2007, and the locum should hold a current certificate of registration within the meaning of Section 2 of that Act in respect of the medical specialty "General Practice" recognised under Section 89 (1) of that Act. Where the Medical

Practitioner is unable to obtain a locum for a period of sick leave, the HSE may assume responsibility for organising a locum/deputising arrangement directly for a defined period, following which responsibility will revert back to the Medical Practitioner. The appropriate costs for such an arrangement are the responsibility of the Medical Practitioner.

The Medical Practitioner shall be entitled to utilise any contribution towards locum expenses due to him/her to meet the costs of such arrangements.

11.4 Save for those circumstances outlined above where the HSE has appointed a locum/deputy for a defined duration (**Clause 11.3**), the Medical Practitioner shall retain full responsibility for the proper care of all patients on his/her panel of Child Patients, whether provided directly or through a Deputy, Assistant, short or long term Locum or other Staff, including the Practice Nurse.

11.5 The Medical Practitioner shall at all times be in a position to demonstrate that their English language competency meets the minimum language requirements as determined by the Medical Council or HSE following consultation with the IMO.

11.6 The Medical Practitioner shall for the duration of the Agreement reside in an area that is sufficiently proximate to his/her area or practice such that he/she can discharge all of the duties and obligations of this Agreement, including those relating to availability as specified in **Clause 9** herein.

12 PRACTICE PREMISES

12.1 The Medical Practitioner shall ensure that the Practice Premises and facilities are fit for purpose, suitable for the delivery of the services and sufficient to meet the needs of patients. The Medical Practitioner undertakes to work towards meeting and maintaining generally accepted standards in relation to Practice Premises.

12.2 Without prejudice to the generality of the foregoing, the Medical Practitioner shall ensure as a minimum that the Practice Premises meet the following requirements:

12.2.1 The Practice Premises shall have a waiting room with a reasonable standard of comfort and hygiene, sufficient in size to accommodate the normal demands of his/her practice

Commented [A11]: This confirmation in relation to domiciliary visits was inserted at the insistence of the IMO

Commented [A12]: While this is a new clause it reflects the facts that the services can be delivered by other staff within the practice

Commented [A13]: This is a medical council requirement for doctors working in Ireland.

with adequate seating accommodation.

12.2.2 The Practice Premises shall have a surgery sufficient in size for the requirements of normal general practice, with facilities including adequate lighting, hot and cold running water, adequate hand washing facilities, an examination couch and other essential needs of a practice, including adequate toilet facilities for patients.

12.2.3 A high standard of cleanliness shall at all times be maintained throughout the Practice Premises.

12.3 The Medical Practitioner shall not change the location of his/her Practice Premises or open additional centres of practice (whether under this Agreement or otherwise) without the prior approval of the HSE.

13 PRESCRIBING

13.1 The Medical Practitioner shall prescribe such drugs and medicines, as he/she considers clinically necessary for any Child Patient for whom he/she is obliged to provide Services having regard to patient safety and clinical effectiveness considerations. The Medical Practitioner may prescribe appliances from such categories as may be specified by the HSE. In prescribing drugs, medicines or appliances, the Medical Practitioner shall have due regard to the need for economy but shall have primary regard for the interest of the Child Patient.

13.2 The Medical Practitioner shall have regard to recommendations on the prescribing of drugs, medicines and appliances which may be issued from time to time by the Department of Health/HSE following consultation with the IMO.

13.3 The Medical Practitioner shall have due regard to patient safety and public health in prescribing to Child Patients, including the control and prevention of antimicrobial resistance and shall have regard to relevant clinical guidelines.

13.4 Where a Medical Practitioner suspects that a Child Patient has suffered an adverse drug reaction, such a reaction shall be reported to the Health Products Regulatory Authority and the report shall be referenced in the Child Patient's file. Such reporting shall be carried out in accordance with the HSE's required

prescribed procedures, as determined from time to time.

13.5 The HSE shall make available GMS prescription forms to the Medical Practitioner for the purpose of prescribing drugs, medicines or appliances to Child Patients who have full eligibility under the Health Act, 1970, as amended. The Medical Practitioner shall keep the stocks of these forms carefully and securely. He/she shall use them only for issuing prescriptions pursuant to this Agreement or pursuant to the GMS Contract and shall complete each form in accordance with its terms.

The Medical Practitioner shall comply with all legal requirements, including misuse of drugs legislation, control of sales regulations and prescription control regulations. The Medical Practitioner shall write "medically urgent" on forms where medicine is urgently required.

14 RECORDS

14.1 The Medical Practitioner shall create and maintain comprehensive records of attendance on and treatment of Child Patients and shall ensure that such records:

14.1.1 Demonstrate a full, accurate and contemporaneous record in respect of the Services requested and services provided to Child Patients.

14.2 All Records maintained by the Medical Practitioner, including electronic records, shall be dated, legible and shall identify as a minimum the following information:

14.2.1 Name, address, date of birth, gender, the card number applying to the Child Patient pursuant to this Agreement; treatment code where applicable, treatment dates, observations, findings, advice, services and treatments provided; and to record details of all referrals for each Child Patient;

14.2.2 The Medical Practitioner(s) responsible for carrying out the Services in respect of each Child Patient; including where the treating Medical Practitioner is not the Child Patient's registered Doctor of Choice;

14.2.3 The time an out of hours service was provided and details of clinical necessity where required to support

Commented [A15]: This clause largely reflects the requirements which were set out in SI 105 of 1971

Commented [A14]: These would be obligations which the GP would have from a medical council perspective.

an out-of-hours claim in accordance with **Clause 20** or otherwise;

at the point of use to Child Patients, provided such surveys are agreed with the Irish Medical Organisation.

Commented [A16]: This relates to the circular governing Out of Hours Attendance by patients.

14.2.4 Details of any amendments to the Records; and

14.2.5 An audit trail of all Records held on an ICT system (to include full history of all documents created).

16 CO-OPERATION WITH AGREED ICT INITIATIVES

14.3 The Medical Practitioner shall comply with best practice and with all laws and regulations governing information security, records' retention and shall ensure that controls are in place to preserve the confidentiality, security, availability and integrity of information recorded.

16.1 The Medical Practitioner, where appropriate, shall co-operate with the introduction of agreed ICT, eHealth and management information initiatives as may be introduced from time to time, including but not limited to the electronic processing of claims, electronic systems for the ordering and monitoring of diagnostic services, the roll-out of electronic messaging, secure email, identity management services, improved customer services and panel management functionality. The introduction of such initiatives shall be agreed with the IMO under the provisions of the Framework Agreement.

Commented [A17]: This is simply stating that the GP will comply with best practice and the law in relation to records and is not creating any new obligations.

14.4 When a Child Patient is transferred to the panel of another Medical Practitioner (for whatever reason), the Medical Practitioner shall, subject to the written consent of the Parent(s)/Guardian(s) of the Child Patient, give to the new doctor a summary of the medical history and condition of the Child Patient.

16.2 Nothing in the Clause 16 or elsewhere in this Agreement shall require the Medical Practitioner to put in place an ICT or new computer system within their practice.

14.5 On the death of the Medical Practitioner, the HSE will arrange through the designated HSE Officer for the transfer of the Records of the deceased practitioner to the Medical Practitioner(s) taking over the provision of Services to these patients. Where it is necessary to take custody of the Records this should be done by the appropriate designated HSE Officer.

17 FEES

17.1 The HSE shall, in consideration of the Services provided by the Medical Practitioner, and on foot of claims made in the forms and at the times provided for herein, pay or arrange payment of the Fees to the Medical Practitioner. The Fees are as set out in **Schedule 1** but may be amended by the Minister from time to time following consultation with the Relevant Representative Bodies.

Commented [A18]: Requirement for this inserted at IMO's insistence

14.6 Where the Medical Practitioner retires or resigns from this Agreement, the Health Service Executive should inform the Parent or Guardian of each Child Patient, when notifying him/her of the name of the new Medical Practitioner, that the Records are being transferred to this Medical Practitioner. The Parent/Guardian should be notified that if he/she does not agree to the transfer of his/her Child Patient's records, he/she should indicate this to the HSE within 14 days of the notification. Records deposited with the designated HSE Officer may be destroyed after a reasonable time in accordance with the HSE's records retention policy.

17.2 The Medical Practitioner shall not demand or accept any payment or consideration whatsoever other than the Fees determined in accordance with this **Clause 17** in reward for the Services provided by him/her or by others on his/her behalf under this Agreement, or in respect of any expenses incurred by him/her in making the Services available. The Medical Practitioner shall instruct any Deputy, Assistants or members of Staff providing Services on his/her behalf to comply with the provisions of this **Clause 17**. This **Clause 17** shall not apply to services which are not comprehended by this Agreement but which the Medical Practitioner may provide from time to time.

Commented [A19]: Please also see exclusion clause.

15 CO-OPERATION WITH AGREED SURVEYS

15.1 The Medical Practitioner shall co-operate with agreed surveys which the HSE or the Department of Health may wish to conduct from time to time, in pursuance of the monitoring of the provision of GP Services free

17.3 Any breach of **Clause 17.2** by the Medical Practitioner or his/her Staff or by anyone acting on behalf of the Medical Practitioner (whether with or without the knowledge of the Medical Practitioner) shall be treated as a serious

breach of the Agreement and may be subject to the sanctions set out in **Schedule 2**.

- 17.4 The allowances and subsidies available under the GP Contracts are, to the extent applicable, also available under this Agreement and are detailed in **Schedule 1**.
- 17.5 Where the Medical Practitioner also holds a GMS Contract and/or a GP Visit Card Contract, the number of persons on the Medical Practitioner's panel of Child Patients (under this Agreement) will be aggregated with the number of patients on his/her GMS Contract and GP Visit Card Contract for the purpose of calculating the amount of any subsidies or allowances to be paid to the Medical Practitioner.
- 17.6 The Medical Practitioner shall maintain such supporting documentation as the HSE requires to demonstrate that any and all Fees claimed by the Medical Practitioner are reasonable and accurate in both kind and amount. In this regard, the Medical Practitioner shall record both the details and amounts of any Fees received by the Medical Practitioner and the dates upon which payment of such Fees was made.
- 17.7 The HSE may from time to time carry out such examinations as it considers necessary to verify the accuracy and reasonableness of claims submitted and the Medical Practitioner agrees to co-operate with such examinations and to provide the HSE with copies of such supporting documentation as it requires.
- 17.8 **Payments** of Fees shall be made monthly in arrears and allowances shall be paid at least quarterly. Where an amount of claim is in dispute, full payment as specified in **Schedule 1** shall be made on account pending the outcome of the Dispute Resolution Procedure, where invoked, except in the case of clear mistake, inaccurate or incomplete details submitted in support of claim or misrepresentation on the part of the claimant. Payments on account shall not be made where the disputed claim(s) is comprehended by **sub clause 2.1.4** and/or **2.1.5** of **Schedule 3** to this Agreement.
- 17.9 Where the outcome of the Disputes Resolution process is that the disputed claims are payable then the claiming Medical Practitioner shall be entitled to submit such claims and receive payments from the HSE for same in accordance with the payment rates set out in **Schedule 1** to this Agreement.

Where the outcome is that the payment(s) in dispute was not payable, payments on account will cease with immediate effect and the value of all payments on account paid in respect of such claims shall be recouped from the claiming Medical Practitioner by the HSE.

- 17.10 Where the Medical Practitioner does not engage with the Dispute Resolution procedure and/or fails to reply to correspondence on the matter in dispute within a period of four weeks from the date of the issue in dispute first arising or four weeks from the receipt of correspondence, whichever may be the later, the HSE may, without prejudice to its other rights under this Agreement, set off the relevant amount against other amounts payable by the HSE to the Medical Practitioner.
- 17.11 Payment of Fees shall be subject to the Medical Practitioner holding and maintaining an up-to-date Tax Clearance Certificate.
- 17.12 Professional Services Withholding Tax shall be deducted at the standard rate from any payments made by the HSE unless proof of exemption is provided by the Medical Practitioner.
- 17.13 Payment of Fees by the HSE shall be without prejudice to any claims or rights which the HSE may have against the Medical Practitioner and shall not constitute any admission by the HSE as to performance by the Medical Practitioner of his/her obligations hereunder.

18 AGREEMENT SUSPENSION, SANCTION AND TERMINATION PROCEDURE

- 18.1 Without prejudice to all other rights of the HSE under the Agreement, in the event of a breach by the Medical Practitioner of any term or provision of the Agreement, the HSE may have recourse pursuant to **Schedule 2** to this Agreement (**Agreement, Suspension, Sanction and Termination Procedures**).
- 18.2 For the avoidance of doubt, the HSE shall, in its discretion, be entitled to exercise its rights pursuant to **Schedule 2** to this Agreement, notwithstanding the fact that a mediation procedure has been initiated in accordance with **Schedule 3 (Dispute Resolution)**.

19 APPOINTMENT OF MEDICAL PRACTITIONER

- 19.1 In consideration of being appointed and being paid the Fees, the Medical Practitioner shall

Commented [A20]: The above 2 paragraphs simply reflect that patients will be aggregated for this purpose.

Commented [A21]: This reflects current GMS obligation to retain copy of claims and records

Commented [A23]: The above 2 clause simply reflect the current legal position

Commented [A22]: Under this clause if a claim is in dispute it should be paid in full pending the resolution of any dispute

Commented [A24]: These clauses refer to the Disciplinary and Disputes resolution procedure which will govern the entirety of the GMS.

provide the Services in accordance with the terms and conditions of the Agreement.

- 19.2 Without prejudice to the generality of the foregoing, the Medical Practitioner shall, and shall procure that his/her Staff shall, in the provision of the Services, exercise due diligence and comply fully with appropriate professional standards, all applicable legislation (and all regulations and orders made under such legislation).
- 19.3 The Medical Practitioner undertakes in the provision of the Services to protect and promote the safety and well-being of children and shall ensure full compliance with any such legal obligations in this regard. He/she shall co-operate with the relevant statutory bodies in relation to child protection matters.

20 OUT-OF-HOURS PAYMENTS

- 20.1 Out-of-hours claims may only be made in respect of appropriate out-of-hours treatment given by the Medical Practitioner outside of the hours 9am to 5pm Monday to Friday and during all hours on Saturdays, Sundays, Public Holidays and Good Friday, subject to the terms and conditions of this Clause 20.
- 20.2 For the purpose of an out-of-hours claim, the HSE will require appropriate third party verification of the time of the consultation.
- 20.3 Out-of-hours claims may not be made in respect of consultations held during Normal Contracted Surgery Hours or Normal/Routine Surgery Hours. Out-of-hours payments will only be made in circumstances where the patient consultation is unforeseen, non-routine and necessarily carried out out-of-hours, and cannot be safely deferred until Normal Contracted Surgery Hours or Normal/Routine Surgery Hours.
- 20.4 Notwithstanding the fact that a Medical Practitioner may have suitable alternative out-of-hours arrangements, an urgent and unforeseen consultation may be the subject of an out-of-hours claim if the service provided by that out-of-hours service is not readily available and/or the Child Patient's complaint is such that he/she required immediate attention and in the opinion of the treating Medical Practitioner it would be injurious to his/her health to wait to attend the Co-op out-of-hours service.

20.5 Out-of-hours claims will not be paid in any or all of the following circumstances:-

- 20.5.1 The consultation is not urgent and/or unforeseen.
- 20.5.2 The consultation takes place during an overflow clinic.
- 20.5.3 The consultation takes place during Normal Contracted Surgery Hours.
- 20.5.4 The consultation takes place during Normal/Routine Surgery Hours.
- 20.5.5 The patient did not require urgent treatment directly by the Medical Practitioner concerned.
- 20.5.6 No face to face out-of-hours consultation actually took place.
- 20.5.7 The consultation is otherwise routine.
- 20.5.8 The time of the consultation was not during the specified out-of-hours period.

20.6 The decision by a Medical Practitioner to accept or refuse a consultation in respect of any of the foregoing circumstances shall be taken by that Medical Practitioner having regard, inter alia, to the provisions of this Agreement and his/her obligations under Medical Council guidelines.

20.7 The Medical Practitioner shall not be entitled to make an out-of-hours claim in respect of consultations that are offered to a patient outside normal hours, merely to facilitate the preference of the Child Patient or his/her Parent(s)/Guardian(s).

20.8 It is the obligation of the Medical Practitioner to ensure that all appropriate claim forms are completed accurately and fully. Out-of-hours claims may only be made by the Medical Practitioner on whose panel the Child Patient is registered, or by a partner of that practitioner who is also a Medical Practitioner and who has entered into a recognised rota arrangement with the Child Patient's doctor, where such arrangements have been approved by the HSE. Such arrangements may include out-of-hours co-operative rotas.

21 VARIATION

21.1 The HSE may, following consultation under the Framework Agreement with the Irish Medical Organisation, vary the Agreement (other than the Fees determined in accordance with Clause 17.1) where:

Commented [A25]: These clauses reflect existing legal obligation on the GP

Commented [A26]: Good Friday included here at IMO's insistence to stop further issues with this day.

Commented [A27]: This section arises from the Mediated Out of Hours Agreement

21.1.1 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

21.1.2 The HSE notifies the Medical Practitioner in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

21.1.3 Where reasonably practicable, the date that the proposed variation shall take effect shall be not less than 30 days after the date on which notice in accordance with Clause 25 is served on the Medical Practitioner.

21.2 If the Medical Practitioner wishes to terminate the Agreement following notice of any amendment, the Medical Practitioner shall be entitled to do so in accordance with Clause 4.1 of Schedule 2 and shall be permitted to serve out the required three months' notice on the pre-existing terms and conditions of the Agreement (save in exceptional circumstances where immediate implementation of the variation is essential in order to protect health and safety).

22 AUTHORISED AGENT

22.1 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 set out hereunder. In particular, the Medical Practitioner shall not hold himself/herself out, nor permit any person to hold him/her 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/she is so authorised.

23 DATA PROTECTION

23.1 The Medical Practitioner and the HSE shall comply with their respective obligations under the Data Protection Act 1988 and 2003 as may be amended and all regulations made thereunder (referred to as "Applicable Data Protection Legislation" for the purposes of this Clause 23), in the collection and storage of data pursuant to the Agreement.

24 FREEDOM OF INFORMATION

24.1 The Medical Practitioner acknowledges that the HSE is subject to the provisions of the Freedom of Information Act 2014 (as may be amended) and that the HSE may be obliged to disclose information regardless of any representations made by the Medical Practitioner. However, where a request is made for information furnished by, or which concerns, the Medical Practitioner, the HSE shall, where appropriate, endeavour to consult the Medical Practitioner before responding to such a request.

25 NOTIFICATIONS

25.1 Any notice, notification or other communication given or made under this Agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party. In the case of communications to the HSE, such communications shall be addressed to the Authorised Representative of the HSE. In the case of the Medical Practitioner, all communications shall be made to the Medical Practitioner's last known address, or by sending it by fax or email to the fax number or email address notified by the relevant party to the other party.

25.2 In addition to any requirements of notification set out above or elsewhere in this Agreement or the Schedules, the Medical Practitioner shall notify the HSE in writing, as soon as is reasonably practicable, of:

25.2.1 Any serious incident that in the reasonable opinion of the Medical Practitioner prevents or is likely to prevent the Medical Practitioner's performance of his/her obligations under the Agreement.

25.3 The Medical Practitioner shall immediately notify and obtain the prior approval of the HSE of any changes or proposed changes in the details supplied by him/her and included in this Agreement. The Medical Practitioner shall not unreasonably request any such changes and the HSE shall not unreasonably withhold its consent to such requests.

25.4 Without prejudice to the generality of the foregoing, the Medical Practitioner's Normal Contracted Surgery Hours shall have regard to patient needs in the community and the Medical Practitioner shall, prior to implementing any such change, first obtain the

Commented [A28]: This clause inserted at IMO's insistence. Ensures that any alteration must be through Framework Agreement.

Commented [A29]: This simply reflects the current position, where neither the GP or the HSE has the power to bind the other.

Commented [A30]: Both clause 23 and 24 reflect existing legal obligations arising from Statute.

HSE's approval and shall at all times co-operate with the HSE in order to ensure that patient needs continue to be met.

- 25.5 Failure by the Medical Practitioner to obtain the HSE's prior approval before implementing changes specified in this Agreement may cause the HSE to invoke the Disciplinary Provisions of this Agreement in accordance with the procedures set out in **Schedule 2**.
- 25.6 The notifications and approvals effected in accordance with this **Clause 25** shall form part of the Agreement.

26 WARRANTIES AND INDEMNITIES

- 26.1 The Medical Practitioner warrants that:
- 26.1.1 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;
- 26.1.2 No information has been omitted which would make the information that was provided by the Medical Practitioner to the HSE materially misleading or inaccurate;
- 26.1.3 No circumstances have arisen which materially affect the truth and accuracy of such information;
- 26.1.4 He/she is not at the date of this Agreement aware of anything within his/her reasonable control which may or will materially adversely affect his/her ability to fulfil his/her obligations under this Agreement.
- 26.2 The Medical Practitioner further warrants and undertakes to the HSE and it shall be a condition of this Agreement that:
- 26.2.1 The Medical Practitioner and Staff have the appropriate qualifications, competence and authority to carry out the Services and are compliant with professional registration requirements as appropriate;
- 26.2.2 The Services shall at all times be provided in a manner consistent with the provisions of this Agreement;
- 26.2.3 The Services shall comply with 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, 2003 and 2012, the Confined Space Regulations 2001 and any amendments thereof.

27 INSURANCE

- 27.1 The HSE is relying upon the judgment and expertise of the Medical Practitioner and his/her Staff in providing the Services and accordingly, the Medical Practitioner shall maintain in force at all times insurance policies or indemnity arrangements (including membership of a medical defence or protection organisation where there is provision for medical indemnity insurance or other indemnity arrangement for clinical negligence claims against the member) in respect of all customary liabilities and risks undertaken by the Medical Practitioner in connection with the provision of the Services or as may reasonably be required by the HSE or by law (including professional indemnity insurance or other indemnity arrangement, employer's liability insurance and public liability insurance). The arrangements must be adequate to cover the Medical Practitioner's liabilities under the Agreement and commensurate with the full time nature of this Agreement.
- 27.2 The Medical Practitioner undertakes to ensure that his/her employees, agents or representatives employed for the purpose of providing the Services are covered by equivalent professional indemnity insurance/cover. For the avoidance of doubt, this does not impose an obligation on the Medical Practitioner to procure directly or fund the cost of professional indemnity insurance/cover for his/her employees, agents or representatives employed for the purpose of providing the Services.
- 27.3 The Medical Practitioner shall not knowingly do or permit or suffer to be done any act or thing whereby the insurances or indemnity arrangements (as set out in **sub clause 27.1**) required by this **Clause 27** may lapse or become in whole or in part void or voidable.
- 27.4 The Medical Practitioner shall comply with all terms and conditions of his/her insurance policies or indemnity arrangements (as set out in **sub clause 27.1**) at all times. If cover under the said policies/arrangements shall lapse or not be renewed or changed in any material way the Medical Practitioner shall notify the HSE without delay.

Commented [A31]: This reflects the current GMS Position

28 INSPECTIONS

- 28.1 The HSE shall be entitled to carry out inspections of the Premises and the Records used by the Medical Practitioner for the purposes of the Agreement where the HSE has concerns in relation to the manner in which the Medical Practitioner is discharging his/her obligations under this Agreement, such inspections shall ordinarily be by prior arrangement with the Medical Practitioner.
- 28.2 The Medical Practitioner shall facilitate at all reasonable times such inspection of the Premises and the Records used by the Medical Practitioner for the purposes of the Agreement as may be required by the HSE 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. Inspection shall ordinarily be by prior arrangement with the Medical Practitioner.
- 28.3 The HSE's right to inspect pursuant to this Clause 28 shall be subject to the jurisdiction of any other relevant statutory body to carry out inspections. The HSE reserves the right to notify the Medical Council of any matters which may be of relevance to the Medical Council and of which the HSE becomes aware during the course of an inspection. The HSE shall inform the Medical Practitioner of any such notification as appropriate.
- 28.4 The Medical Practitioner shall co-operate with inspections conducted pursuant to this Clause 28, including facilitating interviews between the Medical Practitioner, the Staff (where appropriate) and the HSE or any Authorised Representatives of the HSE.
- 28.5 The HSE shall, subject to Data Protection Legislation, including where applicable under said legislation the requirement to obtain patient consent, be entitled to make copies (including electronic copies) of any Records during the course of an inspection and the Medical Practitioner shall facilitate the taking of such copies.
- 28.6 Once the Medical Practitioner is notified of an inspection of his/her practice pursuant to this Clause 28, the Medical Practitioner shall not remove any information or document relating to his/her performance under or compliance with this Agreement from the Practice Premises without the prior consent of the HSE unless its removal is required in the interests of a patient, in which case the Medical Practitioner 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.
- 28.7 In the event that an inspection conducted under this Clause 28 reveals that the Medical Practitioner 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 invoke the disciplinary process pursuant to Schedule 2.
- 28.8 If the Medical Practitioner considers it necessary, he/she shall be entitled to the benefit of legal representation during the course of any inspections undertaken pursuant to this Clause 28. The cost of any such representation shall be borne by the Medical Practitioner.

29 INTELLECTUAL PROPERTY RIGHTS

- 29.1 The Medical Practitioner 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 Medical Practitioner.

30 ASSIGNMENT, TRANSFER AND SUB-CONTRACTING

- 30.1 The Medical Practitioner 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.
- 30.2 The Agreement shall be binding upon successors and assigns of the HSE and the name of the HSE appearing in the Agreement shall be deemed to include the names of its successors and assigns.

31 COSTS

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

32 REMEDIES CUMULATIVE

- 32.1 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.

33 FORCE MAJEURE

- 33.1 For the purposes of this **Clause 33**, the expression "Force Majeure" shall mean 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.
- 33.2 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.
- 33.3 If either the HSE or the Medical Practitioner 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.
- 33.4 Where the Force Majeure event is continuing for a period of at least one month, the other party shall have the right to terminate this Agreement upon seven days notice.
- 33.5 It is expressly agreed that any failure by the Medical Practitioner to perform, or any delay by the Medical Practitioner in performing his/her obligations under this Agreement, which results from any failure or delay in the

performance of his / her obligations by any person, firm or company with which the Medical Practitioner 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.

- 33.6 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 33** and, therefore, exclude such events as strikes, lock-outs or industrial disputes of the Medical Practitioner and/or other Medical Practitioners.

34 ENTIRE AGREEMENT

- 34.1 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.
- 34.2 Neither party has relied on any other written or oral agreement, representation, arrangement or understanding.
- 34.3 The Medical Practitioner acknowledges that he/she 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.
- 34.4 Nothing in this **Clause 34** shall have the effect of limiting or restricting any liability of a party arising as a result of fraud.

35 NON SURVIVAL OF TERMS

- 35.1 Unless expressly provided, no term of this Agreement shall survive expiry or termination of this Agreement. Express provision is made in relation to:
- 35.1.1 **Clause 23** (Data Protection);
- 35.1.2 **Clause 24** (Freedom of Information);
- 35.1.3 **Clause 28** (Inspections);
- 35.1.4 **Clause 29** (Intellectual Property Rights);
- 35.1.5 **Clause 39** (Governing Law);

- 35.1.6 **Clause 40** (Disputes and Jurisdiction);
- 35.1.7 **Schedule 1** (Fees and Allowances payable under Agreement);
- 35.1.8 **Schedule 2** (Agreement Suspension, Sanction and Termination);
- 35.1.9 **Schedule 3** (Dispute Resolution);

36 SEVERABILITY

36.1 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.

37 FURTHER ASSURANCES

37.1 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.

38 FORBEARANCE AND WAIVER GENERALLY

38.1 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.

39 GOVERNING LAW

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

40 DISPUTES AND JURISDICTION

40.1 The parties agree to endeavour to resolve any disputes as to the operation of this Agreement in accordance with the provisions set out in **Schedule 3** hereto.

40.2 Without prejudice to the foregoing, 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.

41 Review of Interim Contract

41.1 This contract is intended to be an interim contract which will be replaced by an overall GP Contract to be agreed between the Department of Health/HSE and IMO as set out in the Memorandum of Understanding and in accordance with the Framework Agreement of June 2014.

41.2 In the event that a new GP contract is not agreed by the 31st of July 2016 a review of this contract will commence no later than the 1st of August 2016 unless otherwise agreed between the parties. Any such review will be carried out in accordance with the aforementioned Framework Agreement.

Commented [A33]: The IMO secured in the inclusion of a review clause to ensure that if there was no agreement on a wider

Commented [A32]: The new disputes resolution procedure was a matter which the IMO sought.

SCHEDULE 1. FEES AND ALLOWANCES PAYABLE TO MEDICAL PRACTITIONERS UNDER AGREEMENT FOR THE PROVISION OF SERVICES FOR THE HEALTH (GENERAL PRACTITIONER SERVICE) ACT 2014 (UNDER 6 YEAR OLDS)

Fees and Allowances payable to GP contract holders in respect of Child Patients on their panel	
Annual Capitation Fee per Child Patient on the GP's panel, which includes two periodic assessments, one at age 2 and one at age 5.	€125.00
Initial Asthma diagnosis and registration after the Child Patient reaches the age of 2 years	€50.00
Enhanced capitation in year 1 post registration (subject to submission of annual dataset return)	€90.00
Enhanced capitation for each subsequent year up to and including the age of 5 years (subject to submission of annual dataset return)	€45.00

Special Services (Special Items of Service) for Under 6 Patients	
Service	Amount
Removal of lodged or impacted foreign bodies from the: (a) ear (b) nose (c) throat (d) skin	€24.80
Removal of adherent foreign bodies from the conjunctival surface of the eye	€24.80
Suturing of cuts and lacerations (including application of tissue glue)	€37.21
Excisions/cryotherapy/diathermy of skin lesions	€24.80
Draining of abscess	€24.80
Nebuliser treatment in the case of acute asthmatic attack	€37.21
Treatment and plugging of nasal and dental haemorrhages	€24.80
Attendance by General Practitioner at case conferences	€62.02

All Other relevant payments, such as Out-of-Hours, Rural Practice Allowance, Second Medical Opinion, Practice Support Subsidies, Contribution towards Locum expenses, etc. will be in accordance with the rates payable under the General Medical Services (GMS) Capitation Contract.

SCHEDULE 2. AGREEMENT SUSPENSION, SANCTION AND TERMINATION PROCEDURE

1 DISCIPLINARY PROVISIONS

- 1.1 The rules of natural justice and fair procedure shall apply to this Agreement. It is a fundamental and underlying principle of the disciplinary procedure set out hereunder that any Medical Practitioner who is the subject of a complaint/investigation will have the full right to be heard and to set out his/her own defence. A Medical Practitioner shall be entitled to be legally represented or to be represented by his/her representative body. For the avoidance of doubt this does not impose an obligation on the HSE to either procure or directly fund legal representation on behalf of any medical practitioner.
- 1.2 Where the National Director, Primary Care Division has reason to believe that the Medical Practitioner has failed to comply with any of the terms of the agreement, he/she shall notify the Medical Practitioner in writing of the reasons for such belief by registered post and inform him/her that he/she shall consider any representations in regard to the matter which may be received by him/her from the Medical Practitioner, or on his/her behalf, within one month of the issue of the notification, or such longer period as determined by the National Director, Primary Care Division on foot of a request from or on behalf of the Medical Practitioner.
- 1.3 The National Director Primary Care Division shall not consider a complaint relating to an individual living patient except where:
- 1.3.1 It is made by the patient, by a member of his/her family, or by another person with the written consent of the patient, or where the patient is a child, his/her Parent or Guardian and is in writing and signed by the person making it and;
- 1.3.2 It is made within six weeks of the event or alleged event, or within such longer period as the National Director Primary Care Division may determine following consultation with a member of the HSE's Primary Care Division Management Team and a HSE registered medical practitioner, who may or may not be a member of the HSE's Primary Care Division Management Team.
- 1.4 The National Director Primary Care Division if he is satisfied, after consideration of any representations which the Medical Practitioner may make or have made on his/her behalf in regard to the matter and following the conduct of an investigation in to the matter, form the view that:
- 1.4.1 There is no basis for proceeding with the complaint.
- Or*
- 1.4.2 The Medical Practitioner has not complied with the terms of the agreement and if he/she so thinks fit, either –
- (a) Issue a verbal or written warning to the Medical Practitioner or otherwise communicate appropriately with him/her; or
- (b) Request the Director General to establish a committee pursuant to **Clause 1.6** of this **Schedule 2** for the purpose of examining a complaint (**Clause 1.3** of this **Schedule 2**) or alleged failure to comply with the terms of this agreement (**Clause 1.2** of this **Schedule 2**).
- 1.5 A Medical Practitioner in respect of whom the National Director Primary Care Division has issued a verbal or written warning pursuant to sub-clause 1.4.2 (a) of this Schedule 2 may appeal the decision of the National Director, Primary Care Division to the Director General to review the matter and issue a final determination. In reviewing an appeal under this sub-paragraph the Director General shall consult with two members of the HSE Management Team one of whom shall be a Registered Medical Practitioner.
- 1.6 The committee established by the Director General to examine a complaint or alleged failure to comply with the terms of this agreement (under Clause 1.4.2 (b) above) shall consist of:

- 1.6.1 One person who shall be legally qualified (being chairman of the Committee) who shall be nominated by the Minister; and
 - 1.6.2 Two persons selected by the Director General in person; and
 - 1.6.3 Two persons nominated by the relevant representative body or by the Registered Medical Practitioner.
- 1.7 A committee established in accordance with **Clause 1.6** of this **Schedule 2**, shall act in accordance with the following rules:-
- 1.7.1 Subject to the provisions of **sub clause 1.7.2** of this **Schedule 2**, the committee may act notwithstanding any vacancy among its members.
 - 1.7.2 The committee may not act unless the Chairman and at least one of the persons selected by the Director General in person and one of the persons nominated by the relevant representative body (or by the Registered Medical Practitioner) are present.
 - 1.7.3 The chairman of the committee shall convene the first meeting of the committee not less than ten days after the committee is established.
- 1.8 During the conduct of the committee's proceedings, the chairman shall have discretion as to the conduct of the proceedings and in particular shall:
- 1.8.1 Decide the order of appearance of persons appearing before the committee;
 - 1.8.2 Permit the Medical Practitioner concerned, or the National Director Primary Care Division, to appear in person or to be represented and/or assisted by another person, which may include legal representation or representation by the Medical Practitioner's representative body; and
 - 1.8.3 Hear any relevant person(s) who is/are not a party to the proceedings.
 - 1.8.4 Grant the Medical Practitioner the right to be represented and have prior sight of all allegations and any evidence against the Medical Practitioner and the right to adduce evidence and call witnesses on the Medical Practitioner's own behalf.
- 1.9 Any questions arising before the committee shall be decided by the majority of the members of the committee who are present and vote and, in case of an equality of votes on any question, the chairman shall have a second or casting vote.
- 1.10 The committee shall make its recommendations in writing to the National Director Primary Care Division who shall notify in writing (within seven days) the Medical Practitioner concerned of the recommendations.
- 1.11 A committee shall complete its examination of a complaint with all practicable speed. It shall ordinarily conclude its deliberations and issue its recommendations within 6 months of the date of its inaugural meeting unless, in the opinion of the Chairman, exceptional circumstances exist that warrant extending the period of examination. This could include, but is not limited to, the medical practitioner being unavoidably indisposed due to illness. A decision to extend the period of examination is made by the Chairman following consultation with at least one member of the committee nominated by the Director General and one member of the committee nominated by the relevant representative body (or by the Registered Medical Practitioner).
- 1.12 Where a committee upholds a complaint, it may:
- 1.12.1 Recommend to the HSE that the Medical Practitioner should be admonished;

- 1.12.2 Recommend to the HSE that the Medical Practitioner should undergo specific periods of educational training and/or supervised practice, the cost of which will be borne by the Medical Practitioner;
- 1.12.3 Recommend to the HSE that a deduction of a specified sum of money should be made from monies due to the Registered Medical Practitioner under this agreement in accordance with its terms;
- 1.12.4 Recommend termination of the agreement between the HSE and the Medical Practitioner;
- 1.13 Where the committee recommends the termination of the agreement, the National Director Primary Care Division shall notify in writing (within seven days of receipt of the committee's recommendation) the Medical Practitioner concerned that the agreement shall be terminated on behalf of the HSE after the expiration of a period of 21 days, unless a request has been made to the Director General under **Clause 1.14 of this Schedule 2**. The National Director Primary Care Division may where appropriate notify in writing the Registrar of the Irish Medical Council of the recommendation of the Committee and shall on request from the Registrar supply such particulars as may be necessary for the Council to consider the matter.
- 1.14 The Medical Practitioner in relation to whom a recommendation has been made under **Clause 1.12** of this Schedule may request the Director General to issue a direction to the National Director Primary Care Division in person in relation to that recommendation as detailed in **Clauses 1.15 and 1.16** of this **Schedule 2**.
- 1.15 A request under **Clause 1.14** of this **Schedule 2** shall be submitted in writing to the Director General either by the Medical Practitioner concerned or on his/her behalf and shall specify the grounds on which the Medical Practitioner requests the Director General to issue a direction in person to the National Director Primary Care Division and the Director General shall notify the National Director Primary Care Division in person of the receipt of such request.
- 1.16 Where a request is made to the Director General under **Clause 1.15** of this **Schedule 2**, the Director General may consult with two members of the HSE's Management Team, (not being the National Director Primary Care Division) and one of whom being a registered medical practitioner (not being the medical practitioner referenced in **Clause 1.3.2** or **Clause 2.1** of this **Schedule 2**). The Director General in person may give to the National Director Primary Care Division a direction (being a direction to comply with the recommendation of the committee) or such other direction (being a direction to reduce the severity of sanction or overturn the recommendation of the Committee) as the Director General considers appropriate and the National Director Primary Care Division shall comply with any such direction.
- 2 SUSPENSION OF AGREEMENT**
- 2.1 Where the National Director Primary Care Division, following consultation with two members of the HSE's Management Team, other than the Director General and one of whom being a registered medical practitioner, is satisfied that the care of patient(s) is placed in jeopardy, he may in accordance with this **Clause**, suspend the operation of a Medical Practitioner's agreement pending investigation of a complaint under the preceding paragraphs. In such circumstances, the Committee referred to in **Clause 1.6** to this **Schedule 2** shall in all cases meet to consider the matter on a date not later than three weeks from the date of the suspension.
- 3 AUTOMATIC TERMINATION**
- 3.1 For the avoidance of doubt, the Agreement shall terminate automatically on the Medical Practitioner reaching the age of 72 years. The Medical Practitioner, if required by the HSE, shall, on entering into the Agreement, furnish evidence of his/her date of birth.
- 4 TERMINATION BY MEDICAL PRACTITIONER ON NOTICE**

- 4.1 The Medical Practitioner may terminate this Agreement on giving three months' notice in writing of his/her intention to terminate or such shorter period as may be accepted by the Health Service Executive.

5 TERMINATION BY HSE FOR DEFAULT

- 5.1 The National Director Primary Care Division shall be entitled to terminate this Agreement without consequential liability to the Medical Practitioner with immediate effect if he/she is satisfied that it is appropriate to do so if:-
- 5.1.1 It has been established on foot of a determination by a competent medical examiner nominated by the HSE, following consultation with the Medical Practitioner's Representative Body, that the Medical Practitioner is suffering from permanent infirmity of mind or body that impedes the Medical Practitioner'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 Medical Practitioner, the HSE shall refer the person in respect of whom there are concerns to an independent medical examiner and shall take the findings of this medical examiner into consideration in arriving at its final conclusion.
- 5.1.2 The Medical Practitioner is removed from the register of General Practitioners maintained by the Medical Council or from the register of an equivalent authority in any jurisdiction;
- 5.1.3 The Medical Practitioner; has been found guilty by a court of law of committing any fraudulent act or any indictable offence or gross negligence;
- 5.1.4 The Medical Practitioner takes up full-time employment with the HSE or within the wider public sector; and the HSE, following a review of the circumstances, decides in its discretion that a conflict of interest situation exists.
- 5.2 A Medical Practitioner in respect of whom a decision has been made by the National Director Primary Care Division in accordance with **Clause 5.1** of this **Schedule 2** shall be entitled to request a referral of this decision to a committee appointed by the Director General. The composition of the committee shall be as outlined in **Clause 1.6** of this **Schedule 2**. Where applicable, the rules governing the committee are as outlined in **Clauses 1.7, 1.8, and 1.9** of this **Schedule 2**.
- 5.3 The Committee shall give full consideration to the matter and issue a final determination to the Director General in respect of same. The Director General shall notify in writing the Medical Practitioner of the determination of the Committee.

SCHEDULE 3. DISPUTE RESOLUTION

1 DISPUTE RESOLUTION PROCEDURE

- 1.1 Routine disputes should be capable of being resolved without recourse to a formal Dispute Resolution Procedure.
- 1.2 The parties to this Agreement shall use their best endeavours to communicate and co-operate with each other with a view to resolving in good faith any matters in dispute arising between them on the operation of this Agreement.

2 SCOPE OF SCHEDULE 3

- 2.1 The procedure set out in this **Schedule 3** shall apply to the operation of this Agreement as it impacts on the rights and obligations of the parties thereto only and shall not apply to;
 - 2.1.1 Any matter the subject of an investigation in accordance with **Schedule 2**.
 - 2.1.2 Any matter in respect of which any part of this process has already been invoked or for which judicial proceedings are being pursued by either party.
 - 2.1.3 Any matter in respect of which a mediation process, third party arbitration or judicial proceedings are being pursued by either party.
 - 2.1.4 Any matter that gives rise to a dispute which:
 - a) Has already been resolved through the reaching of a collective agreement or;
 - b) The parties have previously been involved in a mediation process where an agreed outcome was reached, or
 - c) Either Party has had the matter in dispute determined through a third party arbitration or through judicial proceedings
 - 2.1.5 Any matter that was not brought in to this process within three years of the matter in dispute arising.
 - 2.1.6 Any matter that gives rise to a dispute over the interpretation of contractual matters under this Agreement. Such matters shall be dealt with under the Framework Agreement between the Department of Health, HSE and the IMO dated June 2014.

3 REVIEW OF MATTERS IN DISPUTE

- 3.1 Where a dispute arises that is comprehended by the Scope of this Dispute Resolution Procedure the matter in question will be dealt with in accordance with a standard operating procedure agreed between the HSE and the IMO.
- 3.2 Every effort shall be made by the parties to resolve the matter in dispute, at the lowest level of complexity and in the first instance through, the informal process and thereby obviating the need to have recourse to the formal dispute resolution procedure described hereunder.
- 3.3 Where informal attempts have not resolved the matter in dispute, details should be submitted in writing by the Medical Practitioner or where applicable his/her Representative Body to the HSE Senior Manager responsible for the particular area or service. The HSE Senior Manager responsible shall, within four weeks from receipt of correspondence, review the matter in dispute and issue a response in writing to the Medical Practitioner and, where applicable, his/her Representative Body. Where the HSE Senior Manager is unable to complete this review within four weeks, he/she shall, before the end of the specified four weeks, write to the Medical Practitioner and, where applicable, his/her Representative Body explaining the reason for the delay (which must be reasonable) and indicating when the review will be completed. Such delays shall not be for a period greater than four weeks, save where the parties agree otherwise.

4 ESCALATION PROCEDURE

- 4.1 Where in the opinion of the Medical Practitioner the matter in dispute has not been resolved to his/her satisfaction, the Medical Practitioner may then submit comprehensive details of his/her complaint or dispute to the Officer nominated specifically under the escalation procedure to manage such matters, hereinafter referred to as the “**Delegated Officer**”. The Delegated Officer shall in all instances be senior in grade to the HSE Senior Manager who carried out the initial formal review of the matter in dispute and shall not have had any prior involvement in the matter in dispute. The Referral to the Delegated Officer shall be accompanied by all relevant documentation including copies of all correspondence between the Medical Practitioner and, where applicable, his/her Representative Body and the HSE in relation to the matter in dispute including those outlined in **Clause 3** of this **Schedule 3**.
- 4.2 Delegated Officers are responsible for the following areas:
- Area 1 - Donegal, Sligo, Leitrim, Cavan, Monaghan
 - Area 2 - Galway, Roscommon, Mayo
 - Area 3 - Clare, Limerick, North Tipperary
 - Area 4 - Kerry, Cork
 - Area 5 - South Tipperary, Carlow, Kilkenny, Waterford, Wexford
 - Area 6 - East Wicklow, Dun Laoghaire, Dublin South East
 - Area 7 - Kildare, West Wicklow, Dublin South West, Dublin South City, Dublin West
 - Area 8 - Laois, Offaly, Longford, Westmeath, Louth, Meath
 - Area 9 - Dublin North, Dublin Central, Dublin North West
 - Primary Care Reimbursement Services
 - National Contracts Office
- 4.3 Delegated Officers are nominated by the National Director Primary Care Division and Delegated Officers will be notified to the IMO at least on an annual basis.

5 THE DELEGATED OFFICER

- 5.1 The Delegated Officer shall, within seven days of the matter in dispute being received by him/her, confirm in writing to both parties, that his/her review has commenced. The Delegated Officer may interview the Medical Practitioner, HSE staff or other individuals as appropriate. The Delegated Officer shall notify the Medical Practitioner and, where applicable, his/her Representative Body and the HSE Officer(s) of his/her determination generally within four weeks from the date that the Delegated Officer informed the parties that the review has commenced which shall in all cases be within seven days of the matter in dispute being referred to him/her. Where the Delegated Officer is unable to complete this review within this timeframe, he/she shall, before the expiration of the four week period, write to the Medical Practitioner, and, where applicable, his/her Representative Body explaining the reason for the delay (which must be reasonable) and indicating when the review will be completed.
- 5.2 If a matter in dispute is resolved by the Delegated Officer, a written memorandum, (a “**Memorandum of Resolution**”), shall be prepared jointly and signed by both the HSE and the Medical Practitioner or, where applicable, his/her Representative Body. The Memorandum of Resolution will confirm that the resolution is in full and final settlement of the dispute, will record all matters in issue and all material factual details of the dispute and the terms of resolution. A copy of the Memorandum of Resolution will be supplied to both the Medical Practitioner and, where applicable, his/her Representative Body and the relevant HSE Officer(s).

6 THIRD PARTY DISPUTE RESOLUTION

6.1 REFERRAL TO THIRD PARTY

- 6.1.1 If the matter in dispute has not been resolved in accordance with the procedures outlined in **Clauses 1, 2, 3, 4 and 5** of this **Schedule 3** the Medical Practitioner or, where applicable, his/her Representative Body may refer the dispute to an agreed Independent Disputes Resolution Panel Member (the “**Panel Member**”) by way of a written referral (the “**Referral to Third Party**”).
- 6.1.2 The Panel Member will be appointed in any given case from a panel agreed between the HSE and the IMO unless the Medical Practitioner wishes to nominate an alternative third party to review the matter in dispute. Any such alternative appointment will be agreed between the Medical Practitioner and the HSE and the referral to Third Party process outlined in **sub clauses 6.2, 6.3** of this **Schedule 3** shall also apply in such instances.
- 6.1.3 The panel will be maintained by the HSE and any changes to its composition shall only be made by agreement between the HSE and the IMO.

6.2 THIRD PARTY CORRESPONDENCE

- 6.2.1 The Referral to Third Party by the Medical Practitioner or, where applicable, his/her Representative Body shall be accompanied by all relevant documentation including copies of all correspondence between the Medical Practitioner and, where applicable, his/her Representative Body and the HSE in relation to the matter in dispute, all of which shall already have been furnished to the Delegated Officer as part of the previous stage in this dispute resolution process. A copy of the Referral to Third Party and accompanying documentation shall be sent to the HSE at the same time that the referral is lodged.
- 6.2.2 The HSE shall be entitled to respond to the Medical Practitioner’s referral to the Panel Member. The HSE shall forward to the Medical Practitioner and, where applicable, his/her Representative Body, a copy of its response to the Panel Member on the same date.

7 DISPUTE RESOLUTION PROCEEDINGS

- 7.1 The Panel Member will, when required, be available for at least two full days per month to hear disputes that have been referred to him/her.
 - 7.1.1 The reasonable fees, costs and expenses of the Panel Member 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 Third Party Dispute Resolution process.
 - 7.1.2 In the interest of cost effectiveness the proceedings will be hosted on HSE premises. In the event that a HSE premises is not available to host proceedings the HSE shall be responsible for sourcing suitable alternative facilities and the costs of same shall be borne by the HSE.
 - 7.1.3 Disputes shall be disposed of by way of hearing, unless otherwise determined by the Panel Member following consultation with both Parties, and the Panel Member shall consider all written and oral submissions made to him/her by the parties and having considered all such submissions the panel member shall endeavour to issue a written recommendation to both sides within six weeks from commencement of the review of the matter in dispute by the Panel Member.
 - 7.1.4 The recommendation of the Panel Member shall be accepted by both parties to the dispute except where either side complains that the decision goes outside the terms of the Agreement.
 - 7.1.5 In circumstances where either side complains that the decision goes outside the terms of the Agreement either party may, within four weeks of receipt of the Panel Member’s recommendation, apply to the President of the Institute of Chartered Arbitrators to appoint an Arbitrator (not being a Panel Member) to determine whether the recommendation of the Panel Member goes outside the terms of the Agreement. The findings of the Arbitrator shall be binding in this regard. The Arbitrator shall endeavour to deliver such findings within six weeks of referral.

7.1.6 Where the appointed arbitrator has determined that the Panel Member has gone outside the terms of the Agreement then the matter in dispute shall be addressed through the Framework Agreement as outlined at **Clause 2.1.6**.

7.1.7 Where the finding of the Arbitrator is that the Panel Member's recommendation does not go outside the terms of the agreement then the Panel Member's recommendations on the matter in dispute shall be accepted by both parties.

7.1.8 The reasonable fees, costs and expenses of the Arbitrator shall be borne by the HSE.

7.2 REVIEW OF DISPUTE RESOLUTION PROCEEDINGS

7.2.1 The operation of the Dispute Resolution Procedures will be reviewed annually under the Framework Agreement.

7.2.2 The terms of this **Schedule 3** shall be subject to alteration, following a review of its operation in accordance with **Clause 22** of this Agreement.

7.3 All parties agree to utilise the dispute resolution mechanism for all disputes which fall within the scope of the agreement and the parties will only resort to litigation having exhausted the dispute resolution procedures.

APPENDIX 1: PERIODIC ASSESSMENTS

1 DEFINITION OF PERIODIC ASSESSMENTS

1.1 Periodic Assessments are age based preventive checks focused on health and wellbeing and prevention of disease. The Medical Practitioner shall take an active approach toward promoting health and preventing disease through the provision of Periodic Assessments to Child Patients. In accordance with the provisions of this Agreement the Medical Practitioner shall;

1.1.1 Record the age, gender, weight and height of Child Patients aged two and five years, and plot same on a centile chart. The Medical Practitioner shall also take appropriate follow-up action, including where appropriate, provision of health promotion advice, brief intervention and support, or referral to specialist services. During the assessments, the Medical Practitioner shall, where practicable, record whether a child lives in a smoke free household or not with a view to providing advice on smoking cessation.

2 SUBMISSION OF DATASET

2.1 The Medical Practitioner shall:

2.1.1 Submit an agreed dataset to the HSE annually relating to periodic assessments carried out for Child Patients aged two and five years as outlined at **Clause 3** hereunder.

3 OUTLINE OF SAMPLE DATASET FOR PERIODIC ASSESSMENTS (AGE 2 AND 5 YEARS)

Date of check	<input type="text" value="21/04/2015"/>	*	🔒
Provide GP Services Card Number of child	<input type="text" value="1234567A"/>	*	🔒
Name	<input type="text" value="TEST PATIENT"/>	*	🔒
Gender	<input checked="" type="radio"/> Male <input type="radio"/> Female	*	🔒
Weight \ Height	<input type="text" value="23"/> kg <input type="text" value="105"/> cm	*	🔒
Centile	<input type="text" value="< 2nd percentile (under weight)"/>	*	🔒
Referral / Follow-Up Action	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Referral Option	<input type="text" value="Brief intervention by GP"/>	*	🔒
Smoking status of household	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A	*	🔒
If Yes, Brief Intervention by GP or nurse	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	*	🔒
If Primary Childhood Immunisation Programme not been completed has vaccination been offered?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A	*	🔒

Yes - One or more smoke in the household
No - No one smokes

4 PAYMENT RATES

4.1 Payments for the delivery of Periodic Assessments to relevant Child Patients shall be made in accordance with the provisions of **Clause 17** and **Schedule 1** of this Agreement.

APPENDIX 2

CYCLE OF CARE FOR CHILD PATIENTS UNDER 6 YEARS WITH A DIAGNOSIS OF ASTHMA

1 DEFINITION OF ASTHMA

- 1.1 Asthma is a disease usually characterised by chronic airway inflammation. Asthma is a clinical diagnosis defined by a combination of typical symptoms such as cough wheeze, episodic breathlessness and chest tightness often associated with a personal or family history of atopy/asthma accompanied by reversibility with appropriate asthma medications. In accordance with the provisions of this Agreement the Medical Practitioner shall:
 - 1.1.2 Establish and maintain a patient register; a recall and reminder system for their Child Patients aged between two and six years with a confirmed diagnosis of asthma, hereafter referred as registered Child Patients;
 - 1.1.3 Implement a defined Cycle of Care for their registered Child Patients as set out in this **Appendix 1**.

2 REGISTER

- 2.1 The register and the recall and reminder system will:
 - 2.1.1 Include a list of the Medical Practitioner's known registered Child Patients;
 - 2.1.2 Include the registered Child Patient's name, contact details, date of birth, gender, HSE identifier for the registered Child Patient,
 - 2.1.3 Be kept active and updated.
- 2.2 The register can be in electronic or paper-based format.

3 THE CYCLE OF CARE

- 3.1 While registered Child Patients may require frequent monitoring and review as clinically indicated, the asthma Cycle of Care at a minimum will include one initial consultation after the registered Child Patient has reached the age of two years; a review consultation after three months of diagnosis; and an annual review thereafter until the registered Child Patient has reached six years of age. The assessment and management is set out hereunder.

4 ASTHMA CONSULTATION

- 4.1 Each asthma consultation will include the following:
 - 4.1.1 Documented diagnosis and assessment of the registered Child Patient's level of asthma control and severity of asthma;
 - 4.1.2 Review of the registered Child Patient's use of, and access to, asthma related medication and devices;
 - 4.1.3 Recording the smoking status of the household and provision of brief intervention if appropriate;
 - 4.1.4 Recording if the influenza vaccine was offered to registered Child Patients with moderate to severe asthma;
 - 4.1.5 Provision to the registered Child Patient/Parent or Guardian of the registered Child Patient of education about their asthma and a written asthma action plan (if the Parent or Guardian of the registered Child Patient is unable to use a written asthma action plan, then discussion with the

Parent or Guardian of other methods of providing an asthma action plan, and note the discussion in the registered Child Patient's medical record);

- 4.1.6 Provision of asthma self-management education to the Parent or Guardian of the registered Child Patient;
- 4.1.7 Where applicable, a review of the written or documented asthma action plan; and
- 4.1.8 Scheduling of next review.

5 OUTLINE OF SAMPLE DATASET FOR ASTHMA CYCLE OF CARE

Has this child patient been diagnosed with asthma as defined in the Under 6 contract definitions?	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Provide GP Services Card Number of child	<input type="text" value="9999999C"/>	*	🔒
Name	<input type="text" value="TEST PATIENT"/>	*	🔒
Gender	<input checked="" type="radio"/> Male <input type="radio"/> Female	*	🔒
Date of Asthma review	<input type="text" value="21/04/2015"/>	*	🔒
Review of treatment	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Check of compliance with medication	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Check of inhaler technique	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Patient education provided to parent/guardian (difference between reliever and controller /self monitoring of symptoms)	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Asthma self management plan discussed with parent/guardian	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Influenza vaccine offered (for moderate/severe asthma)	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Printed asthma management plan given to parent(s)	<input checked="" type="radio"/> Yes <input type="radio"/> No	*	🔒
Smoking status of household	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A	*	🔒
If Yes, Brief Intervention by GP or nurse	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	*	🔒

Yes - One or more smoke in the household
No - No one smokes

6 SUBMISSION OF DATASET

- 6.1 The Medical Practitioner shall:
 - 6.1.1 Submit an agreed dataset to the HSE annually relating to registered Child Patients.
 - 6.1.2 Provide evidence of its patient register and recall and reminder system and the completion of the cycle of care for each registered Child Patient, subject to data protection provisions.

7 PAYMENT RATES

- 7.1 Payments for the delivery of services to registered Child Patients under this Cycle of Care shall be made in accordance with the provisions of **Clause 17** and **Schedule 1** of this Agreement.