



Dental Practice

S A L E

DentalPracticeSale
General Buyer Agreement for Purchase of Business and/or Property

THIS AGREEMENT is made on XX-XX-2022

BETWEEN

(1) **SMG CONSULTANCY LIMITED** a company registered in England and Wales with company number 14134682 whose registered office is 550 Valley Road, Nottingham, England, NG5 1JJ acting for and on behalf of our clients (**Vendors**); and

(1A) **[BUYER'S NAME]** OF **[ADDRESS]** ("**BUYER**") AS SET OUT BELOW

BACKGROUND

- (A) The Buyer will receive Confidential Information (as defined below) relating to the Target from the Vendors and other sources, as part of the marketing and sale of the Target.
- (B) The parties wish to ensure that the Confidential Information (as defined below) disclosed to the Buyer remains confidential.

IT IS HEREBY AGREED

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this agreement.

Target: the target entity (including a Company, Partnership, Sole Trader, or any other legal entity through which the Vendors' business is carried on).

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for Target (but excluding any closures as a result of government measures relating to COVID-19).

Confidential Information: all confidential or proprietary information (however recorded or preserved) that is disclosed or made available (in any form or medium), directly or indirectly, by the Vendors, or any of its agents, employees or advisers to the Buyer or any of their employees, agents or advisers, whether before or after the date of this agreement, including:

- (a) the existence and contents of this agreement;
- (b) all confidential or proprietary information relating to the Target, affairs, financial or trading position, assets, intellectual property rights, patients, employees, suppliers,

intentions or market opportunities of the Target;

- (c) the know-how, designs, trade secrets, technical information or software of the Target;
- (d) any other information that is identified as being of a confidential or proprietary nature; and
- (e) any findings, data or analysis derived from such information, but excluding any information referred to in clause 2.5.

Copies:

copies of Confidential Information including any document, electronic file, note, extract, analysis, study, plan, compilation or any other way of representing, recording or recalling information which contains, reflects or is derived or generated from any Confidential Information.

- 1.2 References to clauses are to the clauses of this agreement.
- 1.3 A reference to **this agreement** is a reference to this agreement as varied or novated in accordance with its terms from time to time.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and the plural shall include the singular.
- 1.5 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.6 A reference to a **party** shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to **writing** or **written** does not include fax or email (unless otherwise expressly provided in this agreement).
- 1.8 Any words following the terms including, include, in particular, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.10 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. BUYER'S OBLIGATIONS

2.1 The Buyer shall:

- (a) keep the Confidential Information secret and confidential;
- (b) not exploit the Confidential Information in any way;
- (c) not directly or indirectly disclose or otherwise make available any Confidential Information to any person, except as expressly permitted by, and in accordance with, the terms of this agreement;
- (d) not make any Copies, except as expressly permitted by, and in accordance with, the terms of this agreement;
- (e) inform the Vendors immediately on becoming aware, or suspecting, that Confidential Information has been disclosed to, or otherwise obtained by, an unauthorised third party; and
- (f) not directly or indirectly contact, entice, solicit or approach any employee of or locum to the Target, for the purpose of engaging or recruiting that person to be engaged or employed in any other Target other than the Target, provided that the placing of an advertisement of a post available to a member of the public generally or the recruitment of a person through an employment or locum agency will not constitute a breach of this clause 2.1(f).

2.2 Upon a written request from the Vendors, the Buyer shall (to the extent reasonably practicable), promptly provide to the Vendors a written record of:

- (a) the location of all Confidential Information that has been supplied to the Buyer;
- (b) all Copies that have been made by the Buyer (excluding any Copies containing insignificant extracts from or references to Confidential Information) and where such Copies are held; and
- (c) the names and addresses of every person to whom Confidential Information has been disclosed by, or at the request of, the Buyer.

2.3 If so requested by the Vendors at any time in writing to the Buyer, the Buyer shall within 10 working days of receiving a written demand from the Vendors:

- (a) destroy or return to the Vendors all documents and materials containing, reflecting, incorporating, or based on any Confidential Information, that have been supplied to or generated by the Buyer, including all Copies (other than any Copies that contain insignificant extracts from, or references to, Confidential Information, or that contain no Confidential Information other than information disclosed under clause 3); and
- (b) erase all Confidential Information from its computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically practicable).

2.4 Nothing in clause 2.3 shall require the Buyer to return or destroy (or procure the return or destruction of) any documents or materials containing, reflecting incorporating, or based on Confidential Information that the Buyer or any Permitted Recipient is required to retain by applicable law, or to satisfy the requirements of any regulatory authority or body of competent jurisdiction or the rules of any listing authority or stock exchange, to which such person is subject.

2.5 Information is not Confidential Information if:

- (a) it is, or becomes, generally available to the public other than as a direct or indirect result of the information being disclosed by the Buyer or any other person in breach of this agreement; or
- (b) the Buyer can prove that it received the information from a source that is not connected with the Vendors, and that such source was not under any obligation of confidence in respect of that information; or
- (c) the Buyer can prove that the information was lawfully in its possession before it was disclosed by the Vendors (or on their behalf), and the Buyer was not under any obligation of confidence in respect of that information; or
- (d) the parties agree in writing that the information is not confidential.

3. PERMITTED AND FORCED DISCLOSURE

3.1 Provided it complies with their obligations under clause **Error! Reference source not found.**, the Buyer may disclose Confidential Information to:

- (a) the professional advisers or consultants engaged to advise the Buyer;
- (b) any person whom the Vendors agrees in writing may receive the relevant Confidential Information.

3.2 Subject to the provisions of this clause 3.2, the Buyer may disclose Confidential Information to the minimum extent required by an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction, provided that, the Buyer shall (to the extent permitted by law) use all reasonable endeavours to:

- (a) inform the Vendors of the full circumstances of the required disclosure and the Confidential Information that must be disclosed;
- (b) take all such steps as may be reasonable and practicable in the circumstances to agree the contents of the required disclosure with the Vendors before it is made;
- (c) consult with the Vendors as to possible steps to avoid or limit the required disclosure, and to take those steps where they would not result in significant adverse consequences to the Buyer;
- (d) gain assurances as to confidentiality from the body or authority requiring the disclosure; and
- (e) where the disclosure is by way of public announcement, agree the wording of such announcement with the Vendors before it is made.

3.3 If the Buyer are unable to inform the Vendors before Confidential Information is disclosed pursuant to clause 3.2, the Buyer shall (to the extent permitted by law) inform the Vendors of the full circumstances of the disclosure and the information that has been disclosed immediately after such disclosure has been made.

4. RESERVATION OF RIGHTS AND BUYER' ACKNOWLEDGEMENT

4.1 Nothing in this agreement shall impose an obligation on the Vendors, to disclose any information to the Buyer (whether Confidential Information or otherwise).

- 4.2 All rights in the Confidential Information are reserved and none of the Confidential Information shall be the property of the Buyer. The disclosure of Confidential Information to the Buyer shall not give the Buyer or any other person any licence or other right whatsoever in respect of any Confidential Information beyond the rights expressly set out in this agreement.
- 4.3 The Buyer acknowledge that the Confidential Information may not be accurate or complete and neither the Vendors nor any of their agents or advisers, makes any warranty or representation (whether express or implied) concerning the Confidential Information, or its accuracy or completeness.

5. INADEQUACY OF DAMAGES

Without prejudice to any other rights or remedies that the Vendors may have, the Buyer acknowledge and agree that damages alone would not be an adequate remedy for any breach of the terms of this agreement by the Buyer. Accordingly, the Vendors shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this agreement.

6. DURATION

- 6.1 This agreement shall terminate upon completion of the sale and purchase of the Target.
- 6.2 Unless terminated under clause 6.1, this agreement shall continue in full force and effect for a period of two years from the date of this agreement.

7. ASSIGNMENT

- 7.1 The Buyer confirm that they are acting on their own behalf and not as a broker or agent, or otherwise for the benefit, of any other person.
- 7.2 Neither party shall assign, transfer or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other.

8. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous discussions, correspondence, negotiations, drafts, agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

9. VARIATION AND WAIVER

- 9.1 No variation of this agreement shall be effective unless it is in writing and signed by all the parties (or their authorised representatives).
- 9.2 No failure or delay by any party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy provided under this

agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right or remedy under this agreement or by law is only effective if it is in writing.

10. COSTS

Except as expressly provided in this agreement (or otherwise agreed in writing by the parties), each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation and execution of this agreement and the evaluation and review of Confidential Information.

11. NOTICES

11.1 A notice given to a party under or in connection with this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post, recorded delivery or special delivery in each case to that party's address as set out in this agreement (or to such other address as that party may notify to the other parties in accordance with this agreement).

11.2 Delivery of such notice is deemed to have taken place (provided that all other requirements in this clause 11 have been satisfied) if delivered by hand, at the time the notice is left at the address or, if sent by post, on the second Business Day after posting, unless such deemed receipt would occur outside Target hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place deemed receipt), in which case deemed receipt will occur when Target next starts in the place of receipt (and all references to time are to local time in the place of receipt).

11.3 This clause 11 does not apply to the service of any proceedings or other documents in any legal action.

12. SEVERANCE

If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

13. THIRD PARTY RIGHTS

13.1 A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

13.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

14. GOVERNING LAW AND JURISDICTION

14.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

14.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

THIS AGREEMENT has been entered into as a deed (and delivered) on the date stated at the beginning of it.

Agreement Signature

For and on behalf of the Buyer

Name:

Signature:

GDC Number:

Contact Number:

Home Address:

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For and on behalf of the Buyer

Name:

Signature:

GDC Number:

Contact Number:

Home Address:

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