

## SCHEDULE 6

### OTHER CONTRACTUAL TERMS

#### PART 8

#### VARIATION AND TERMINATION OF CONTRACTS

##### **Termination by the Health Board: remedial notices and breach notices**

**106.**—(1) Where a contractor has breached the contract other than as specified in paragraphs 101 to 105 and the breach is capable of remedy, the Health Board must, before taking any action it is otherwise entitled to take by virtue of the contract, serve a notice on the contractor requiring it to remedy the breach (“a remedial notice”).

(2) A remedial notice must specify—

- (a) the details of the breach;
- (b) the steps the contractor must take to the satisfaction of the Health Board in order to remedy the breach; and
- (c) the period during which the steps must be taken (“the notice period”).

(3) The notice period must, unless the Health Board is satisfied that a shorter period is necessary to—

- (a) protect the safety of the contractor’s patients; or
- (b) protect itself from material financial loss,

be no less than 28 days from the date that notice is given.

(4) Where a Health Board is satisfied that the contractor has not taken the required steps to remedy the breach by the end of the notice period, the Health Board may terminate the contract with effect from such date as the Health Board may specify in a further notice to the contractor.

(5) Where a contractor has breached the contract other than as specified in paragraphs 101 to 105 and the breach is not capable of remedy, the Health Board may serve notice on the contractor requiring the contractor not to repeat the breach (“breach notice”).

(6) If, following a breach notice or a remedial notice, the contractor—

- (a) repeats the breach that was the subject of the breach notice or the remedial notice; or
- (b) otherwise breaches the contract resulting in either a remedial notice or a further breach notice,

the Health Board may serve notice on the contractor terminating the contract with effect from such date as may be specified in that notice.

(7) The Health Board is not to exercise its right to terminate the contract under sub-paragraph (6) unless it is satisfied that the cumulative effect of the breaches is such that the Health Board considers that to allow the contract to continue would be prejudicial to the efficiency of the services to be provided under the contract.

(8) If the contractor is in breach of any obligation and a breach notice or a remedial notice in respect of that default has been given to the contractor, the Health Board may withhold or deduct monies which would otherwise be payable under the contract in respect of that obligation which is the subject of the default.