

SAMPLE COST-SHARING AGREEMENT

THIS AGREEMENT made as of the ___ day of _____,2008.

B E T W E E N :

DR. a,
of the City of gg, Province of Ontario
(hereinafter called “ ”)

-and-

DR. b ,
of the City of gg, Province of Ontario
(hereinafter called “b ”)

-and-

DR. c ,
of the City of gg, Province of Ontario
(hereinafter called “c ”)

-and-

DR. d ,
of the City of gg, Province of Ontario
(hereinafter called “d ”)

RECITALS

- A. Each of the parties is a doctor of family medicine in the City of gg with carrying on a medical practice in order to economize on the costs and expenses of doing so, but for no other purpose.
- C. The parties hereto have agreed to carry on the practice of medicine in association under the name and style of “abcd ” and do not wish to form a partnership of any nature or for any purpose whatsoever.
- D. The parties have agreed to execute and deliver this agreement for the purpose of setting forth the terms and conditions of the Association and the continuation thereof.

NOW THEREFORE in consideration of the mutual covenants contained herein and the receipt of other good and valuable consideration which the parties acknowledge, this Agreement provides as follows:

Article 1
DEFINITIONS

1.1 Interpretation

In this Agreement:

“**Accountant**” has the meaning ascribed to it in Section 4.3;

“**Agreement**” means this agreement as the same may be amended or restated from time to time and includes all Schedules;

“**Associates**” mean the parties to this Agreement on the date hereof being abcd , and collectively and “**Associate**” means any one of them;

“**Association**” means all of the Associates collectively;

“**Bank Account**” shall have the meaning ascribed to it in Section 4.2;

“**Business Day**” means any day of the week other than Saturday or Sunday or a statutory or civic holidays;

“**Capital Agreement**” means the agreement made the 2nd day of March, 2006 between Her Majesty the Queen in Right of Ontario as represented by the Minister of Health and Long Term Care and, amongst others, Meghan, Ken and Laura.

“**Clinic**” means the medical clinic carried on by the Associates to be called “ Crown Point Family Health Centre, Lower”;

“**Clinic Manager**” means the person hired by the Associates from time to time to run the Clinic;

“**CME**” means Continuing Medical Education;

“**CMPA**” means the Canadian Medical Protective Association;

“**Continuing Associates**” shall have the meaning ascribed to it in Section 6.10;

“**Costs**” means Direct Costs, Fixed Costs and Variable Costs;

“**CPSO**” means the College of Physicians and Surgeons of Ontario;

“**Direct Costs**” means the costs set out in Schedule A attached hereto, as it may be amended from time to time;

“**Disabled Associate**” shall have the meaning ascribed to it in Section 7.1;

“**Equipment**” shall have the meaning ascribed to it in Section 2.6;

“Family Health Organization Agreement” shall mean the agreement the Associates have signed with the Minister of the Health and Long Term Care dated _____, which agreement created HEFHO;

“Fiscal Year” shall have the meaning ascribed to it in Section 4.1;

“Fixed Costs” includes the costs set out in Schedule B attached hereto, as may be amended from time to time;

“HEFHO” means the xx Family Health Organization created by the Family Health Organization Agreement;

“HFHT” shall mean xxx Family Health Team;

“including” means “including without limitation” and shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it;

“Income Division Day” shall have the meaning ascribed to it in Section 3.4;

“Lease” shall mean the lease made between a.,b,c as tenants and www. as Landlord as of the 1st day of September, 2006 with respect to the property known as part of Level 1, vvv.ddd , Ontario;

“MOHLTC” means the Ontario Minister of Health and Long-Term Care;

“Managing Associate” and **“Vice Managing Associate”** shall have the meaning ascribed in Section 4.7;

“Mental Incapacity” means the mental incapacitation of an Associate, as determined by a court of competent jurisdiction, and shall include untreated addictions;

“Net Ministry Payments” means each Associate’s portion of the OHIP and HEFHO-related payments received for the services each Associate provided to patients, less Costs;

“OHIP” means the Ontario Health Insurance Plan;

“Person” includes an individual, body corporate, partnership, joint venture, trust, unincorporated organization, the Crown or any agency or instrumentality thereof or any entity recognized by law;

“Physical Incapacity” means the physical inability of an Associate, as determined by two independent duly qualified medical practitioners, of carrying on her medical practice;

“Premises” shall have the meaning ascribed to it in Section 2.5;

“Retiring Associate” shall have the meaning ascribed to it in Section 6.7;

“Special Resolution” means a resolution of the Associates that is approved by the

affirmative vote of three-quarters (3/4) of the Associates present in person or by teleconference at any meeting called to consider such request;

“**Supplies**” means office and medical supplies located on the Premises and used by the Associates at the Clinic;

“**Termination Date**” shall have the meaning ascribed to it in Section 6.7; and

“**Variable Costs**” includes the costs set out in Schedule C attached hereto, as it may be amended from time to time.

1.2 Headings

The division of this Agreement into articles, sections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The article, section and schedule headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and are not to be considered part of this Agreement. All uses of the words “hereto”, “herein”, “hereof”, “hereby” and “hereunder” and similar expressions refer to this Agreement and not to any particular section or portion of it. References to an Article, Section or Schedule refer to the applicable article, section or schedule of this Agreement.

1.3 Number and Gender

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

1.4 Entire Agreement

This Agreement constitutes the entire agreement between the Associates pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, express or implied, between the Associates with respect thereto. There are no representations, warranties, conditions, other agreements or acknowledgements, whether direct or collateral, express or implied, that form part of or affect this Agreement, or which induced any Associate to enter into this Agreement or on which reliance is placed by any Associate, except as specifically set forth in this Agreement.

1.5 Waiver of Rights

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Associate giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Associate to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

1.6 Applicable Law

This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in the Province of Ontario (excluding any rule or principle of the conflict of

laws which might refer such interpretation to the laws of another jurisdiction). Each Associate irrevocably submits to the non-exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder or related hereto.

1.7 Schedules

The following schedules form part of this Agreement.

Schedule	Description of Schedule
A	Direct Costs
B	Fixed Costs
C	Variable Costs
D	Equipment

Article 2 CARRYING ON THE PRACTICE OF MEDICINE IN ASSOCIATION

2.1 Agreement

Upon and subject to the terms and conditions hereof, each Associate agrees to carry on his or her own medical practice in association with the other Associates.

2.2 Mission Statement

The parties hereto agree that the mission of abcd shall be as follows:

- (a) To provide excellent comprehensive primary health care;
- (b) To optimize access and quality of prevention and chronic disease management through the development of collaborative inter-professional teams as per the goals of the xFHT.

2.3 Not a Partnership

The Associates acknowledge and agree that they do not intend, by entering into this Agreement, to form a partnership of any nature whatsoever between them, nor is it intended by carrying out the terms hereof, and otherwise sharing Premises for the purpose of carrying on their respective medical practices, that they should be characterized as carrying on business in partnership. No Associate shall take or omit to take any action whatsoever which might reasonably result in any Person (including any patients or creditors of any Associate) believing that the Associates are carrying on business in partnership.

2.4 Name

The name of the Clinic shall be “abc Health Centre, Lower”.

2.5 Leased Premises

The Associates shall practice at the premises located at 33 bbb, First Floor, ddd Ontario (the “**Premises**”). The Premises shall be rented from November 1, 200x to the October 31, 20xx. In addition, the Lease contains an option to renew for three (3) successive periods of five (5) years each. The Rent, Additional Rent, taxes and other tenant’s financial obligations under the Lease shall be a Fixed Cost for the purposes of this Agreement and shall be dealt with pursuant to the provisions of Section 3.3 hereof.

d acknowledges and covenants with the other Associates that, notwithstanding that she is not a party to the Lease, she shall nonetheless be responsible for her share of all Rent, Additional Rent, taxes and other tenant’s financial obligations under the Lease as if she had originally signed the Lease with the Landlord.

2.6 Equipment

Schedule D attached hereto lists the equipment which has been contributed to the Clinic by one or more of the Associates (the “**Equipment**”). In the event that one or more of the parties hereto ceases to be an Associate pursuant to the terms of this Agreement, he or she shall be entitled, provided he or she is not in material breach of any of the provisions of this Agreement, to remove his or her Equipment from the Clinic.

Additional office or medical equipment to be acquired by the Associates for the Clinic (“**Equipment**”) (other than equipment purchased by an Associate for his or her sole use) shall be treated as a Fixed Cost or Direct Cost under Section 3.3 hereof.

2.7 Use of Equipment and Supplies

Each Associate shall have the right to use the Old Equipment, any other Equipment and Supplies at such times and in such manner as are reasonable in the circumstances and each Associate hereby agrees to co-operate with the other Associates in respect thereof.

2.8 Business Name Registration

The Associates have registered the business name “abcdAssociates” for the Clinic. It is understood by the Associates that an individual is required to register a business name under the *Business Names Act* when carrying on a business in a name other than his or her own name. It is also understood by the Associates that only individuals, corporations and partnerships can register a business name and that no more than one individual can register the same business name.

Article 3 REVENUE AND SHARING OF EXPENSES

3.1 Allocation of Revenue

Each Associate shall retain his or her own billing number for the purposes of billing

OHIP for services provided to the Associates' patients.

Each Associate shall retain or have allocated to him or her, the revenue generated from the following sources:

OHIP Billings and Third Party Fee for Service Billings

- (a) OHIP Billings with respect to the Associate's patients;
- (b) Third Party Fee for Service Billings generated by the Associates, including medical/legal reports and WSIB payments;

xFHT Revenue

- (c) Revenue received from xFHT relating to the employment of nurses for the Association to be allocated amongst the Associates pursuant to the formula set forth in Section 3.3(c) hereunder;
- (d) Twenty-five per cent (25%) of the revenue received from xFHT relating to nursing overhead;
- (e) Revenue received from xFHT relating to office administration for the Association to be allocated amongst the Associates pursuant to the formula set forth in Section 3.3(c) hereunder;
- (f) Twenty-five per cent (25%) of the revenue received from xFHT relating to mental health overhead;
- (g) Twenty-five per cent (25%) of the revenue received from xFHT relating to registered dietician overhead;

xxFHO Revenue

- (h) Fee for Service (shadow billing) revenue received from HxxHO with respect to the Associate's patients;
- (i) Twenty-five per cent (25%) of the revenue received from xxFHO with respect to long term care on call;
- (j) Access Bonus revenue received from HxxHO with respect to the Associate's patients;
- (k) Twenty-five per cent (25%) of the revenue received from xxFHO with respect to electronic medical records;
- (l) Fee for Service (shadow billing) revenue for locums which the Associate employs, or in the event the locum is employed by the Association or two or more associates, such revenue shall be allocated pursuant to the formula set out in Section 3.3(c) hereunder;
- (m) Twenty-five per cent (25%) of the revenue received from xxFHO with respect

to the nurse practitioner interaction fee;

MOHLTC NP Program

- (n) Revenue received from MOHTC relating to the employment of nurse practitioners for the Association, overhead and administration expense of the Association, all of which are to be allocated amongst the Associates pursuant to the formula set forth in Section 3.3(c) hereunder.

The Clinic Manager shall be responsible for submitting each Associate's billings to OHIP and for rendering accounts to third parties for services provided by each Associate, and billings relating to the Associates' participation in the HEFHO Agreement. OHIP billings will be prepared and submitted to OHIP by the Clinic Manager on a monthly basis.

The parties hereto acknowledge and agree that the revenue allocations set out herein are based upon current funding arrangements that exist as at the date hereof, and may be subject to change in the future due to changes in various funding programs. In the event of changes in the various funding programs, the parties hereto undertake and agree with each other to amend the allocation of revenue in good faith as the said changes may require.

3.2 Accounts Receivable

All amounts received from OHIP for services provided to the Associates' patients, will be deposited directly into each associate's bank account upon receipt.

It is understood and agreed that revenue received and payable to the Association from xxFHO, xFHT and the MOHLTC re NP program is to be employed to defray the operating cost of the Clinic. In the event that such funds are insufficient, each Associate agrees to provide the necessary funds to ensure the operation of the Clinic, which funds are to be provided in accordance with the Costs and expenses criteria set forth in Section 3.3 herein.

Other than cheques made directly to the Associates, all other cheques received from any funding source will be paid directly to the Association and deposited to the Bank Account.

3.3 Costs and Expenses

Costs and expenses of the Association shall be allocated to each of the Associates and paid as follows:

- (a) All Fixed Costs shall be shared equally between the Associates;
- (b) All Direct Costs paid out of the Bank Account shall be allocated to the Associate who benefits from or incurred such Direct Cost. The determination as to the allocation of a Direct Cost shall be made by the Associates. Direct Costs incurred by each Associate in the future will be added to Schedule "A" and the allocation shall be determined by the Associates;
- (c) All Variable Costs shall be allocated on a percentage basis to each Associate, such percentage to be based upon the following formula:

Associate's quarterly OHIP income minus
amounts received by the Associate for CME
as set out in the OHIP Remittance Advice
of such Associate

=

Associate's allocated
percentage of Variable
Costs

All Associates' quarterly OHIP income minus
amounts received by the Associates for CME
as set out in the OHIP Remittance Advice of
all Associates

For the purposes of this Section, "quarterly" shall mean January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

For the purposes of this Section and Schedule "F", "OHIP income" shall exclude the Associates' OHIP income earned outside the Clinic and HEFHO on-call income.

It is expressly agreed that all payments of Costs made by the Association or the Clinic Manager are made as agent of the Association and of the individual Associates. It is further agreed that any Costs paid by any member of the Association are incurred as agent on behalf of all other members of the Association.

3.4 Reconciliation/Budget

Within forty-five (45) days following the last day of each Fiscal Year, the quarterly statements referred to in Section 3.3(c) herein will be consolidated and adjusted based upon each Associate's actual annual total income as allocated in Section 3.3 herein. The adjustment and consolidation shall be in accordance with the methodology set forth in Schedule "E" attached hereto and shall be prepared by the Accountant.

In addition, the Associates in conjunction with the Clinic Manager and the Accountant shall, within forty-five (45) days following the last day of each Fiscal Year, prepare and approve an operating budget for the Association

3.5 Records

The Clinic Manager shall keep a record of the following:

- (a) OHIP billings, and billing submissions made in relation to the participation in the FHO Agreement of each Associate;
- (b) Monthly Costs and funds received;
- (c) HFHT, HEFHO and MOHLTC (NP) funds received.

3.6 Adjustment of Formula

On October 1, 2009, if any Associate's patient load is less than one thousand five hundred (1,500) patients, the Associates shall in good faith renegotiate the Variable Cost formula set out in Section 3.3 hereof with respect to such Associate(s). In doing so, the Accountant shall be

retained by the Association to assist with the amendment to the said formula, and the decision of the Accountant shall be final and binding on all Associates.

Article 4 **ADMINISTRATIVE MATTERS**

4.1 Fiscal Year

The year-end for the medical practice of each Associate shall be the 31st day of December (the "**Fiscal Year**")

4.2 Banking Arrangements

The Associates shall open a bank account in the name of "abcd Associates" with a bank, trust company, credit union or caisse populaire licensed to transact business in the Province of Ontario (the "**Bank Account**"). Each of the Associates and the Clinic Manager shall have signing authority on the account and all cheques, drafts, and other instruments and documents on behalf of the Association with respect to that account shall be signed by any two Associates who are not married or related to each other, or by such persons as are from time to time designated in writing by all the Associates. The Clinic Manager will have the authority to sign cheques less than \$2,000.00; cheques in excess of \$2,000.00 will require the signature of the Clinic Manager and one Associate, or the signatures of two Associates. All HEFHO and HFHT payments shall be paid and deposited into such account upon receipt. All MOHLTC (NP) payments and payments made in relation to the FHO Agreement and the HFHT shall, as and when received, be paid and deposited in such account.

As among themselves, each Associate shall be severally liable for an equal portion of such indebtedness, interest and costs ("Associate's Portion"). Each Associate ("Indemnitor") agrees to indemnify and save harmless each other Associate ("Indemnitees") from and against any payments made by an Indemnitee in excess of the Associate's Portion, provided that the total amount paid by any Indemnitor personally and to indemnify the Indemnitees, shall not exceed the Associate's Portion.

4.3 Financial Statements

At the end of each Fiscal Year, the chartered accountants, as approved by the Associates from time to time (hereinafter referred to as the "**Accountant**"), shall forthwith make an examination of the internal financial statements of the Clinic as prepared by the Clinic Manager and the Managing Associate. The Managing Associate(s) and Accountant shall attempt to agree upon any revisions to such annual financial statement suggested by the Accountant arising out of the review. Annually, the Accountant shall present the financial statements for the Clinic and the allocation of received funds for each Associate, to the Associates for their approval. The Associates shall attempt to agree upon any revisions to such annual financial statements suggested by any one or more of them. In the event that the Associates are unable to agree to any such suggested revision, the Accountant shall determine whether any revision is necessary, which determination may be disputed pursuant to Article 8 "Arbitration" hereof. It is understood by the Associates that the retaining of the Accountant referred to herein shall in no way constitute the Accountant as an auditor or place upon

the Accountant the responsibility or obligations associated with an audit. An audit of the financial statements shall not be required unless same is approved by Special Resolution.

4.4 Books of Account

Proper computerized accounting records shall be kept of all Clinic transactions and such accounts, together with all other documents connected with Clinic business, shall be kept on the Premises and be accessible to each of the Associates.

4.5 Devotion of Time to the Clinic

Each Associate shall devote sufficient time in the Clinic seeing patients to support his or her patient load,. Each Associate confirms that, absent any express agreements to the contrary, it is not the expectation that an Associate will provide care to any of his or her fellow Associates' patients. Any income earned by an Associate outside of the Clinic shall belong to such Associate, whose responsibility it shall be to report such income on her personal income tax return.

In addition, each Associate shall devote sufficient time and attention to manage the affairs of the Clinic.

4.6 Work Schedule and On-Call Schedule

Each Associate shall participate in the work schedules and on-call schedules approved by the Associates and xxFHO. Day-to-day work schedules will be co-ordinated regularly by the Clinic Manager and the Associates.

4.7 Managing Associate

The Associates by Special Resolution shall appoint a Managing Associate and Vice-Managing Associate on an annual basis. The Managing Associate shall work closely with the Clinic Manager and Association's accountant to manage the Clinic and co-ordinate communication and decision-making amongst the Associates and the Clinic Manager, and to represent the Associates with respect to external parties.

The Vice Managing Associate shall perform the duties and functions of the Managing Associate should the Managing Associate be absent, retired, disabled or deceased.

4.8 Associate Vacations – Leaves

Each Associate shall arrange for suitable physician coverage for vacations and leaves to adequately fulfil the said Associate's obligations and duties to his or her patients.

An Associate or the Association may retain the services of a locum, which locum shall be subject to the approval of at least two (2) of the other Associates, not including the vacationing or at-leave Associate, to manage his or her patient load during the said Associate's absence. The costs and expenses of such locum shall be paid by the Associate or Associates who have retained the services of such locum.

No Associate shall be entitled to retain the services of a locum for greater than twelve (12) weeks in any calendar year without first obtaining the approval of a majority of the remaining Associates.

4.9 Vehicle Expense

No Associate is entitled to reimbursement or vehicle expense and each Associate agrees that any and all vehicle expense incurred, including maintenance costs, gas, mileage, and insurance shall be the sole responsibility of each Associate.

4.10 Records

All patient records, histories, cards, charts, files and x-rays shall remain the exclusive responsibility of the Associate who is the physician primarily responsible for the care of the patient, as recommended by the CPSO.

4.11 Admission of New Associates

Other physicians may become Associates upon the written approval of all of the physicians who are then Associates provided that such physicians join the Association at the commencement of a Fiscal Year, unless otherwise agreed to by all of the Associates in writing. Each new physician who becomes an Associate shall sign an addendum to this Agreement and by so doing shall agree to be bound by all of the terms of this Agreement.

4.12 Meetings

A meeting of the Associates may be called by any two Associates and will generally be held monthly. At the invitation of the Associates, the Clinic Manager shall attend and take minutes of meetings.

4.13 Notice of Meeting

There shall be required to be given to each Associate personally or in writing at least fourteen (14) days' notice of any meeting of the Associates in order that such meeting shall be duly constituted for the transaction of business, unless such notice is waived by all of the Associates in writing. Provided however, that there shall only be required to be given to each Associate personally or in writing at least seven (7) days' notice of any meeting called to receive and approve financial statements and to consider the expulsion of any physician as an Associate, the amendment of this Agreement or the admission of a new physician as an Associate, unless such notice is waived by all of the Associates in writing.

4.14 Place of Meetings

Meetings of the Associates shall be held at the Premises unless otherwise agreed by the Associates.

4.15 Proxy

Written proxies naming some other Associate to be proxy for an absent Associate shall be permitted.

4.16 Quorum

Three quarters of the Associates present in person or represented by proxy shall constitute a quorum.

4.17 Chair of Meeting

The Chair of any meeting of the Associates shall be the Managing Associate or, in his or her absence, the Vice-Managing Associate, or the Clinic Manager to be appointed by a majority of the Associates in attendance at the meeting present in person or represented by proxy.

4.18 Votes

Votes shall be by show of hands unless any Associate requests a written ballot. All matters shall be decided at a meeting of Associates by a majority of votes, save and except matters set forth in this Agreement requiring the passing of a Special Resolution.

4.19 Resolutions in Writing

Any resolution signed by all of the Associates is as valid and effective as if passed at a meeting of the Associates duly called, constituted and held for that purpose.

Article 5 INSURANCE, LIABILITIES AND INDEMNIFICATIONS

5.1 Insurance

Each Associate agrees to maintain professional liability insurance coverage with the CMPA in respect of her practice.

5.2 Liability

Each Associate shall be fully responsible for all medical advice, examinations and treatments rendered by her and in no event shall the other Associates be liable for any bodily injury, death or other damages resulting therefrom.

5.3 Indemnification

Each Associate agrees to indemnify the other Associates and save them harmless from all fines, suits, losses, proceedings, claims, costs, damages, expenses, demands or actions of any nature or kind whatsoever, directly or indirectly, arising out of, or in any manner associated or connected with, any medical advice, examinations and treatments provided in her medical practice

and against any and all damages, costs, expenses and fees including, without limitation, any reasonable legal expenses incurred by or on behalf of any of the foregoing in the investigation and defence of any and all such suits, proceedings, claims, demands or actions.

Each Associate further agrees to indemnify and save harmless the other Associates from and against all fines, suits, losses, proceedings, claims, costs, damages, expenses, demands or actions of any nature or kind whatsoever, directly or indirectly, arising out of, or in any manner associated or connected with, the Associate's failure to comply with the terms hereof and of any actions taken or omitted to be taken by the Associate which result in the loss of or diminution in any goodwill or business of the other Associates, including any fines, suits, losses, proceedings, claims, costs, damages, expenses, demands or actions of any nature or kind which may arise as a result of the Associate taking or omitting to take any action which results in a finding by a court of competent jurisdiction that the Associates are carrying on business in partnership of any nature whatsoever or that otherwise results in any fines, suits, losses, proceedings, claims, costs, damages, expenses, demands or actions of any nature or kind being incurred by the other Associates which have not been expressly agreed upon by the Associates in this Agreement.

Article 6

TERM, TERMINATION AND WITHDRAWAL

6.1 Term

This Agreement shall continue until terminated by the mutual agreement of all of the Associates.

6.2 Termination

In addition to the circumstances described in Section 7.4, a physician shall cease to be an Associate upon the occurrence of one of the following events:

- (a) death of the physician;
- (b) retirement of the physician from medical practice;
- (c) voluntary withdrawal of the physician pursuant to Section 6.3;
- (d) revocation or suspension of the physician's medical license by the CPSO;
- (e) bankruptcy or insolvency of the physician;
- (f) expulsion of a physician as an Associate pursuant to Section 6.6; and
- (g) Physical Incapacity or Mental Incapacity for a period of twelve (12) months pursuant to Section 7.4 hereof.

For greater certainty, the occurrence of one or more of the foregoing events or the events described in Section 7.4 for one physician shall not relieve the remaining Associates of their rights and obligations hereunder.

6.3 Voluntary Withdrawal

A physician may withdraw as an Associate by giving one hundred eighty (180) days prior written notice to the other Associates provided, however, that the requirement for such notice may be waived by a majority of the Associates entitled thereto at any time in writing.

6.4 Condition to Voluntary Withdrawal

Notwithstanding Section 6.3, no more than two (2) physicians may give notice of withdrawal as an Associate within any twelve (12) month period.

6.5 Continuing Obligations upon Withdrawal

A physician who voluntarily withdraws as an Associate or ceases to be an Associate pursuant to Sections 6.2(b) or (d) or (g) shall continue to be responsible for his or her share of Fixed Costs until the end of the term of the Lease, unless a suitable replacement for the withdrawing Associate is obtained, which replacement must be acceptable to a majority of the remaining Associates, acting reasonably, and which replacement must become a party to this Agreement.

Each of the Associates covenants and agrees that they will use all reasonable efforts to obtain a replacement Associate in the event of voluntarily withdrawal or termination of an Associate pursuant to Sections 6.2(b), (d), (f) or (g) herein.

In the event an Associate voluntarily withdraws from the Association and such voluntary withdrawal results in the Minister of Health and Long Term Care requiring repayment from the remaining Associates of all or a portion of the capital funding provided by the Ministry to the Associates to defray the capital costs incurred to establish the Association, such withdrawing Associate hereby undertakes to indemnify and save harmless the remaining Associates from any financial liabilities imposed by the Ministry arising as a result of the Associate's voluntary withdrawal.

6.6 Expulsion

Any physician may be expelled as an Associate by Special Resolution. The Special Resolution shall specify a termination date not less than ninety (90) days from the date of the Special Resolution, and thereafter the expelled Associate shall cease to practise at the Clinic's location, and shall no longer be under any obligations under the Lease. The remaining Associates shall from the date of expulsion be jointly responsible for all Lease payments.

6.7 Termination Date

The date upon which the particular event specified above as terminating the status of a physician as an Associate shall be referred to as her "**Termination Date**" and the physician who ceases to be an Associate (together with her heirs, executors, personal representatives, assigns, trustee or receiver in bankruptcy) shall be referred to as the "**Retiring Associate**".

6.8 Retirement Statements

Forthwith upon the occurrence of the particular event terminating the status of a physician as an Associate, an income statement and balance sheet of the Clinic for the period ending

as of the close of business on the Termination Date (the “**Retirement Statements**”) shall be prepared and delivered to the Retiring Associate.

6.9 Reconciliation

Forthwith based upon the preparation of a Retirement Statement in respect of a Retiring Associate. There will be a payment to or from the Retiring Associate from the remaining Associates’ bank account, all such payments to be made by the Association or received from the Associate within ten (10) days of preparation of the reconciliation. Included in such payment to the Retiring Associate, if any, shall be the Retiring Associate’s proportionate share of the depreciated capital cost of the Clinic’s Equipment, not including leasehold improvements; or, at the Retiring Associate’s option, the Retiring Associate may remove their share of the Equipment as set forth in Section 2.6 herein.

For clarity, a Retiring Associate shall not be entitled to receipt of any proportionate share of the revenue derived from MOHLTC (NP) funding as of the date of retirement. Provided further that a Retiring Associate who continues as a member of xFHT will receive his or her xFHT benefits in accordance with HFHT policies and procedures.

6.10 Return of Guarantees

Subject to the payment by a Retiring Associate of any indebtedness then owing by her to the other Associates (the “**Continuing Associates**”), the Continuing Associates within thirty (30) days after the date of completion of the Retirement Statement relating to such Retiring Associate shall use their reasonable commercial efforts to arrange for the release and return to such Retiring Associate of any guarantee given by her of any indebtedness of the Continuing Associates to any other Person in relation to the business of the Clinic except on account of any matter for which such Retiring Associate shall be liable for fully indemnifying the Continuing Associates apart from the liability under the Lease as set out in Section 6.5 hereof.

Article 7 DISABILITY

7.1 Continuing Obligations

During a period when an Associate is unable to practice due to a Physical Incapacity or Mental Incapacity (the “**Disabled Associate**”), the Disabled Associate shall continue to be responsible for Costs.

7.2 Disability Income Insurance

Each Associate agrees to obtain and maintain professional office overhead expense disability insurance with respect to her share of the Costs, providing a minimum of \$3,500.00 per month in benefits, on terms and conditions reasonably satisfactory to the other Associates. Each Associate agrees to deliver to the Clinic Manager proof of the above-required insurance being in force at least annually or when otherwise requested to do so. In the event that any Associate fails to provide evidence of such insurance, the other Associates may, without notice to the Associate, effect such insurance and recover any premiums paid therefor as a Direct Cost of such Associate. The insurance policy shall name the other Associates as co-insureds and such other Associates shall be entitled to all proceeds of such policy to a maximum amount of such Associate’s share of the Direct

Costs.

7.3 Locum

If the Disabled Associate cannot practice for longer than one (1) month, the other Associates will assist in finding a locum for the Disabled Associate but the disabled Associate will be responsible for paying any related expenses therefor. As well, any such locum must be acceptable to at least two (2) of the Associates not including the Disabled Associate.

No Associate shall be entitled to retain the services of a locum for greater than twelve (12) weeks in any calendar year without first obtaining the approval of a majority of the remaining Associates.

7.4 Physical and Mental Incapacity

A physician who is a Disabled Associate shall cease to be an Associate on the first day of the month following the twelve (12) month period the Disabled Associate was absent from her medical practice at the Clinic. An Associate claiming a Physical Incapacity or Mental Incapacity shall provide a medical report with respect to such incapacity issued by a duly qualified medical practitioner in the Province of Ontario.

7.5 Compensation for Remaining Associates

Until such time as a locum is retained for the Disabled Associate's patients, those Associates who provide care and services to the Disabled Associate's patients shall be compensated based on the OHIP fee for service schedule. As well, a suitable amount of compensation shall be determined as between the Disabled Associate and the remaining Associates for indirect care and administrative functions.

Article 8 ARBITRATION

8.1 Arbitration Procedure

Any disagreement or misunderstanding relating to or flowing from the interpretation or the application of this Agreement, shall be resolved exclusively by arbitration, to be held in Hamilton, Ontario, in accordance with the provisions of the *Arbitrations Act, 1991* (Ontario). All decisions of the arbitrator shall be final and binding upon the Associates and there shall be no right of appeal.

Article 9 GENERAL

9.1 Notice

Any notice, demand or other communication (in this Section 9.1, a “**notice**”) required or permitted to be given or made hereunder shall be in writing and shall be sufficiently given or made if:

- (a) delivered in person during normal business hours to the recipient on a Business Day

and left with the recipient or another adult at the applicable address set forth below;

- (b) sent by prepaid first class mail; or
- (c) sent by any electronic means of sending messages, which produces a paper record, including facsimile transmission (“**Transmission**”);

in each case to the Associate at their respective addresses set forth below:

- (i) in the case of a notice to Laura addressed as follows:
ccc Avenue,bbb, Ontario, nn
- (ii) in the case of a notice to Ken, addressed as follows:
dd Avenue South, gg Ontario, nn
- (iii) in the case of a notice to Meghan, addressed as follows:
jj Avenue, ll Ontario, ll
- (iv) in the case of a notice to Christine, addressed as follows:
oo Crescent,..., Ontarioii

Each notice sent in accordance with this Section shall be deemed to have been received:

- (a) on the day it was delivered;
- (b) on the third Business Day after it was mailed (excluding each Business Day during which there existed any general interruption of postal services due to strike, lockout or other cause); or
- (c) on the same day that it was sent by Transmission, or on the first Business Day thereafter if the day on which it was sent by Transmission was not a Business Day.

An Associate may change his or her address for notice by giving notice to the other Associates.

9.2 Expenses

All expenses incurred in authorizing, preparing, executing and performing this Agreement, including all fees and expenses of legal counsel, accountants, other representatives or consultants, shall be a Fixed Cost.

9.3 Time

Time is of the essence of each provision of this Agreement.

9.4 Further Assurances

Each Associate shall do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within her power as any other Associate may in writing at any time and from time to time reasonably request be done and/or executed, in order to give full effect to the provisions of this Agreement.

9.5 Enurement/Assignability

This Agreement shall be binding upon and enure to the benefit of the Associates and their respective heirs, executors and administrators but shall not be assignable by any Associate.

9.6 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument and receipt of a facsimile version of an executed signature page of this Agreement by an Associate shall constitute satisfactory evidence of execution of this Agreement by such Associate.

9.7 Severability

The invalidity of any provision of this Agreement shall not affect the validity of any other provision. If any provision of this Agreement is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other provision and such provisions are declared to be separate, distinctive and severable.

9.8 Prohibition of Pledges

No Associate shall, without the prior written consent of the other Associates;

- (a) employ any of the money, goods or effects of the Association, or pledge the credit of the Association, except in the ordinary course of practice; and
- (b) assign, mortgage or charge her interest in the clinic or any part of such interest or make any other Person an Associate.

9.9 Independent Legal Advice

Each Associate acknowledges having been provided with a copy of this Agreement and having been advised to obtain independent legal advice in respect of the execution of this Agreement and has either exercised or waived her right to do so.

SIGNED, SEALED AND DELIVERED)
in the presence of:)

_____))
Witness)

_____))
Witness)

_____))
Witness)

_____))

_____))
DR. a

_____))
DR. b

_____))
DR. c

_____))
DR. D

SCHEDULE A

DIRECT COSTS

- Salary and benefits of support staff retained or employed directly by an Associate or Associates.

This Schedule is subject to addition and amendment pursuant to Section 3.3(b) of this Agreement.

SCHEDULE B

FIXED COSTS

- Rent
- Computer and software costs
- Office Liability Insurance
- Taxes
- Utilities
- Telephone charges

SCHEDULE C

VARIABLE COSTS

- Salary and Benefits of all staff
- Medical Supplies
- Office Expenses and supplies including but not limited to postage, printing, stationery, charts paper, etc.
- General Expenses

SCHEDULE D
EQUIPMENT

All items including but not limited to:

1. Medical equipment:
2. Furniture:
- 3 Computers
4. Autoclave

THIS SCHEDULE TO BE UPDATED TO INCLUDE VARIOUS TYPES OF EQUIPMENT

SCHEDULE E**ACCOUNTING METHODOLOGY**

The accountant will consolidate the quarterly statement as provided by the Clinic Manager and compile an annual statement for income tax purposes. The accountant will as necessary reallocate the revenue or expenditures for the year to each Associate in accordance with section 3.1 and 3.3 of this agreement. Specifically, the variable revenue and expense formula will use the annual fee for service in the calculation, rather than the quarterly fees, as illustrated in the formula below:

Associate's annual fees for services minus amounts received by the Associate for CME as set out in the OHIP Remittance Advice of such Associate <hr style="width: 100%;"/>	=	Associate's allocated percentage of Variable Costs
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All Associates' **annual** fees for services minus
 amounts received by the Associates for CME
 as set out in the OHIP Remittance Advice of
 all Associates

The accountant will review the revenue allocation to ensure it has been calculated in accordance with the attribution table. The accountant will ensure the statements are calculated on an accrual basis, thus including revenue and expenditures amounts that may be receivable or payable at year end.

Upon approval of the Associates, the accountant will then summarize the financial data into a format that can be used by the Associates for income tax purposes. This same financial date will be used in the compilation of financial statements as described in section 4.3 of the Agreement.

The accountant will provide this information with the following Notice to Reader appended:

*On the basis of information provided by management, we have compiled the statement of revenue and expenditures of **ffff Family Heath Care, Lower** as December 31, 200X. We have not performed an audit or a review of these statements and, accordingly, we express no assurance thereon. Readers are cautioned that these statements may not be appropriate for their purposes.*