

CONTRIBUTION AGREEMENT

THIS AGREEMENT dated as of the [] day of [], 2017

B E T W E E N :

THE CORPORATION OF THE TOWN OF KINGSVILLE

(“**Kingsville**”)

- and -

THE LEAMINGTON & AREA FAMILY HEALTH TEAM

(the “**Recipient**”)

WHEREAS Kingsville is a party to a lease, with respect to the premises located at 59 Main Street East, Kingsville, Ontario (the “**Existing Service Location**”), for which lease Kingsville provides a grant to the Recipient for the payment of rent;

AND WHEREAS the Lease which expires on October 31, 2017, will be extended for one year from November 1, 2017 to October 31, 2018, or sooner should Leamington & Area Family Health Team (LAFHT) be able to take possession of the New Service Location after which date the Recipient will relocate to New Service Location , Kingsville, Ontario (the “**New Service Location**”);

AND WHEREAS Kingsville will not be a party to the New Lease, however pursuant to this Grant Agreement (the “**Agreement**”) will continue to provide grants to the Recipient;

NOW THEREFORE in consideration of the premises mutual agreements hereinafter set out and of other consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows:

1.0 Term

1.1 The term of this Agreement shall commence on the 1st day of November, 2018 and shall expire on the 31st day of October, 2024, unless terminated earlier pursuant to Articles 4 or 5 of this Agreement (the “**Term**”).

2.0 Kingsville Health Services Plan

2.1 The Recipient shall provide, during the Term, at the New Service Location, the health services as detailed in the Kingsville Health Service Plan attached hereto as Schedule “A” (the “**Funded Services**” or the “**Kingsville Health Service Plan**”).

2.2 The Recipient shall not decrease the Funded Services levels provided for in the Kingsville Health Service Plan without Kingsville's prior written consent.

3.0 Recipient Grant

3.1 (a) Subject to the terms and conditions of this Agreement, Kingsville shall pay to the Recipient an annual amount of \$59,125.00, payable on a quarterly basis in the amount of \$14,781.25 (hereinafter referred to as the "**Funds**" or "**Funding**"). The Funds are inclusive of HST, if applicable.

(b) Kingsville shall pay Funds to the Recipient within fifteen (15) days of the beginning of each fiscal quarter during the Term of this Agreement. For greater certainty, each fiscal quarter is deemed to begin on the first day of January, April, July, and October during the Term of this Agreement.

(c) The Funds paid to the Recipient are to be used solely for the purposes in support of providing the Funded Services at the New Service Location pursuant to the terms of this Agreement and for no other purpose.

3.2 Kingsville may require immediate repayment from the Recipient of the Funds previously paid and terminate one or more future payment(s) of Funds during the remainder the Term if it determines, by definition of the Kingsville Health Service Plan – Schedule A - that the Funds were not spent or applied in accordance with the terms of this Agreement.

3.3 Any extension of this Agreement beyond October 31st , 2024 is subject to Kingsville's review and approval, in its sole and absolute discretion.

4.0 Termination

4.1 Subject to the terms and conditions herein, either Party may terminate this Agreement at any time without liability, cost, or penalty, and without cause for any reason, upon giving at least sixty (120) days written notice of its intention to do so.

4.2 Subject to section 4.3, if either the Recipient or Kingsville is in breach of this Agreement, the non-defaulting party may terminate this Agreement as follows:

(a) In the case of any breach that is capable of being cured, the non-defaulting party may provide notice to the other party, which notice shall set out the particulars of the breach, and state that if the breach is not cured within thirty (60) days, then the Agreement may be terminated at any time by immediate written notice provided by the non-defaulting party; and

(b) In the case of any breach that is not capable of being cured, the non-defaulting party may terminate this Agreement by immediate notice provided to the other party.

4.3 For purposes of Section 4.2, but without limited the provisions thereof, the following events shall be deemed to be breaches of this Agreement by the Recipient, which Kingsville shall be entitled at its option to deem as incapable of being cured:

- (a) The Recipient has knowingly provided false or misleading information regarding any aspect of its organization; or
- (b) The Recipient enters into another agreement with Kingsville for the same or similar purposes as those covered in this Agreement at another location within the boundaries of the Town of Kingsville.

4.4 Upon termination or expiry of the New Lease, this Agreement shall terminate automatically without liability, cost, or penalty to either party.

4.5 Upon termination of this Agreement, Kingsville shall cancel all further Funding and may, in its sole discretion, demand repayment of any Funds that the Recipient has used for purposes contrary to the terms of this Agreement.

4.6 Kingsville may charge interest on any amount that is owed to it pursuant to this Agreement, at the current interest rate charged by Kingsville on accounts receivable.

5.0 Bankruptcy and Creditor Arrangement

5.1 Notwithstanding any other provision in this Agreement, Kingsville, without liability, cost, or penalty, may terminate this Agreement immediately upon giving notice to the Recipient if the Recipient is adjudged bankrupt or is insolvent according to the provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1992, c. 27, s. 2, and the regulations made thereunder; a receiver or trustee of the Recipient's property and affairs is appointed; the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, is petitioned into bankruptcy, or files for the appointment of a receiver; or attempts to execute a bulk sale of its property, except with the prior consent of Kingsville, which consent shall not be unreasonably withheld.

5.2 For the purposes of this section, any Funding received in advance by the Recipient prior to expenditure shall be deemed to be held in trust by the Recipient for Kingsville until such time as such Funds are spent in accordance with the provisions this Agreement. All such deemed trust funds shall be returned to Kingsville in full in the event of termination pursuant to this section.

6.0 Agreement Monitoring

6.1 In addition to any other rights provided hereunder, Kingsville may, during the Term or any extended term, monitor performance of the Funded Services specific to the conditions of the **Kingsville Health Service Plan**. If Kingsville has any concerns with respect to the Recipient and/or the Recipient's performance of the Funded Services that are specific to the **Kingsville Health Service Plan** or any of the Recipient's obligations under this Agreement then,

- a) Kingsville may, by written notice to the Recipient, cause a meeting (a “**Contract Management Meeting**”) to take place between a senior representative of the Recipient no later than five (5) business days after the delivery of such notice by Kingsville, and the notice may specify the areas of concern that Kingsville wishes to raise with the Recipient, and
- b) At the Contract Management Meeting, the Recipient shall,
 - a. Respond to the concerns raised by Kingsville; and
 - b. If applicable, prepare and implement a plan of remedial or other action acceptable to Kingsville, within a reasonable time period, which will be determined by Kingsville, for the purposes of addressing the concerns for which Kingsville called the Contract Management Meeting.

6.2 In addition to any other rights provided hereunder, Kingsville may, by written notice of suspension to the Recipient, suspend all, or a part of, payment of the Funds if the Recipient fails to perform any of its obligations under this Agreement, including the carrying out of the Funded Services to the reasonable satisfaction of Kingsville, provided that such notice of suspension,

- a. Specifies the nature of the Recipient’s Failure; and
- b. Requires the Recipient to remedy such failure no later than forty-five (45) days after the receipt by the Recipient of such notice of suspension.

Kingsville shall pay to the Recipient the amounts withheld pursuant to this Section 6.2, without interest, no later than thirty (30) days after the Recipient remedies the default that gave rise to the withholding pursuant to this Section 6.2 to the reasonable satisfaction of Kingsville.

7.0 Accounting

7.1 The Recipient shall keep and maintain all records, invoices and other documents relating specifically to the Kingsville Health Service Plan Funding *only* in a manner consistent with General Accepted Accounting Principles and clerical practices, and shall maintain such records specific to **Kingsville Health Service Plan** and keep them available for review by Kingsville and its agents for a period of seven (7) years from the termination or expiry of this Agreement.

7.2 To assist Kingsville in the task described in this section, the Recipient shall provide information specific to the Kingsville Health Service Plan to Kingsville reasonably requested by Kingsville.

8.0 Notices

8.1 Any notice, communication, invoice or report required or permitted to be given under this Agreement shall be in writing; delivered personally, by pre-paid courier, registered or prepaid regular mail and addressed to the other party as follows:

To Kingsville:

Attn: Director of Corporate Services
2021 Division Rd. North
Kingsville, ON
N9Y 2Y9

With a copy to:

Attn: Chief Administrative Officer
2021 Division Rd. North
Kingsville, ON
N9Y 2Y9

To the Recipient:

Attn: Executive Director or General Manager
197 Talbot St. W.
Leamington, ON
N8H 1N8

9.0 Limitation of Liability

9.1 Kingsville and its affiliates, and their respective member of council, officers, directors, employees, independent contractors, subcontractors, agents, and assigns shall not be liable to the Recipient, and/or its representatives, for any losses, expenses, costs, claims, damages, and liabilities occasioned by or attributable to anything done or omitted to be done by the Recipient or its representatives in connection with this Agreement, or otherwise related in any way to the Funded Services.

9.2 The Recipient agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and subcontractors as they pertain to the terms and condition of this Agreement or the Funded Services. This paragraph is in addition to any and all of the Recipient's liabilities under this Agreement and under the general application of law. The Recipient shall be liable for all damages, costs, expenses, losses, claims or actions arising from any breach of this Agreement or otherwise related to the Funded Services resulting from the actions of the above-mentioned individuals and entities. This paragraph shall survive the termination or expiry of this Agreement.

10.0 Indemnity

10.1 **Recipient Indemnity.** The Recipient shall at all times, both during and following the Term of this Agreement and any extensions of this Agreement, indemnify and save harmless, Kingsville and its affiliates, and their respective member of council, officers, directors, employees, independent contractors, subcontractors, agents, and assigns (hereinafter referred to as the "**Indemnified Parties**") from and against all claims, causes of action, demands,

liabilities, losses, costs, damages, actions, suits, judgments or other proceedings of any kind or nature (hereinafter referred to collectively as “**Claims**”) by whomsoever made, sustained, occasioned by, brought or prosecuted in any manner based upon, occasioned by, or in any way attributable to anything done or omitted to be done by the Recipient, its officers, directors, employees, agents, assigns, independent contractors or subcontractors, in the performance of their duties under this Agreement or otherwise related to the Funded Services.

11.0 General

11.1 The Recipient shall obtain Kingsville’s prior consent related to any communication or disclosure of Kingsville’s provision of Funding for Funded Services or other terms of this Agreement.

11.2 Except as otherwise specifically stated herein, this Agreement and its Schedule constitute the entire Agreement between the parties pertaining to the Recipient. No modification of this Agreement shall be binding unless in writing and executed by all parties.

11.3 The parties herein are, at all times, independent of one another and shall not be deemed to be employees, agents, partners of, or in a joint venture with, one another.

11.4 No waiver of any breach of this Agreement shall operate as a waiver of any subsequent breach or of the breach of any other provision of this Agreement. No provision of this Agreement shall be deemed to be waived, and no breach excused, unless such waiver or the consent excusing the breach is in writing and signed by the party that is purported to have given such waiver or consent. No delay or omission on the part of any party to this Agreement to avail itself of any such right.

11.5 The Recipient shall not assign, transfer, or pledge any provision or right under this Agreement without Kingsville’s prior written consent. Kingsville may withhold such consent in its sole discretion, or it may grant it subject to such terms and conditions as it may require.

11.6 Time is of the essence.

11.7 If requested by Kingsville in writing, the Recipient shall use commercially reasonable efforts to acknowledge the support of Kingsville in connection with the Funding.

[Signature page to follow]

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

**THE LEAMINGTON & AREA FAMILY
HEALTH TEAM**

By: _____

Name: _____

Title: _____

I/we have authority to bind the corporation

**THE CORPORATION OF THE TOWN OF
KINGSVILLE**

By: _____

Name: Nelson Santos

Title: Mayor of Kingsville

By: _____

Name: Jennifer Astrologo

Title: Director of Corporate Services

I/we have authority to bind the corporation

SCHEDULE "A"

Kingsville Health Service Plan

Effective as of November 1, 2017, the following health services will be provided by the Recipient at the New Service Location for the benefit of the residents of Kingsville:

Additional Physicians

- Leamington and Area Family Health Team (LAFHT) serving the new proposed Kingsville office will provide health services at the New Location during the Term of this Agreement and in accordance with the following:
 - 1) Provide the current complement of (4) physicians that included the new physician Dr. Alexis Taylor that began April 17th 2017
 - 2) An additional physician will be recruited serving the New Service Location subject to fulfilling their rostering requirements under the “Income Stabilization for Family Health Organizations” program with the Ministry of Health & Long Term Care (MOHLTC) and, subject to condition 3 below.
 - 3) an additional physician will be recruited when - subject to the designation of Kingsville as an underserved area according to the Erie St. Clair Local Health Integrated Network (ESC LHIN) and the Ministry of Health & Long Term Care (MOHLTC) - to begin at a point the New Service Location is open subject to patient roster waiting list demand for the Kingsville postal code area as a requirement for an additional physician to meet the criteria to qualify for “Income Stabilization for Family Health Organizations.”
 - 4) The additional recruited physician will then provide services during the Term at the New Service Location.
- If the three (3) physicians, or their designate that currently provide health services at 273 Main Street, Kingsville, transfer to provide health services at the New Service Location, then they shall not count towards the total number of physicians that are required to provide services under this Agreement.
- If any of the physicians required, to provide services under this Agreement cease to practice medicine due to death, loss of license or any other unforeseeable event, then the Recipient shall make commercially reasonable efforts to replace the physician(s) in a timely manner according to condition 2 to 4 above
- The current waiting list of patients in Kingsville and area will be rostered.
- Recruitment of new patients will be promoted by the Recipient.

Minimum Level of Service

- A minimum hours of service per week will be at the current level plus Increased Urgent Hours and subject to conditions 2 to 4 above dedicated to delivering the Funded Services by physicians at the New Service Location.

Increased Urgent Hour Service

- Eight (8) Urgent hours service will be provided by the physicians during the week.

- Urgent hour schedules will be posted/advertised to all rostered patients and to the Community.

Reporting to Town of Kingsville Council/Administration

- Reporting to Kingsville with respect to the primary care provision of services will be on a biannual basis.
- During the Term of this Agreement, the Recipient will appear before Council at least one (1) time per year to report service levels to Council on this Agreement.