

**AGREEMENT FOR THE PROVISION OF
FACILITY SERVICES RELATING TO
OPHTHALMOLOGY SURGICAL SERVICES**

BETWEEN

ALBERTA HEALTH SERVICES

-and-

SAEC SURGICAL LTD.

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THIS AGREEMENT DATED for reference the 1st day of April, 2012.

BETWEEN:

ALBERTA HEALTH SERVICES, a body corporate,
constituted by the *Regional Health Authorities Act* (Alberta)
("AHS")

- and -

SAEC SURGICAL LTD., carrying on business in the City
of Calgary, in the Province of Alberta (the "Operator")

**AGREEMENT FOR THE PROVISION OF
FACILITY SERVICES RELATING TO
INSURED OPHTHALMOLOGY SURGICAL SERVICES**

WHEREAS:

- A. AHS is a health authority with responsibility throughout the Province of Alberta and in that capacity has general responsibility for the planning and provision of health care services in the Province and specific responsibility to contract for all insured surgical services performed within the Province outside public hospitals;
- B. The Operator operates a non-hospital surgical facility within the Province which has the demonstrated experience and capability to provide insured surgical services of a type which AHS wishes to have provided within the Province;
- C. AHS wishes to retain the Operator to provide the Services and the Operator wishes to provide the Services, in each case in accordance with and subject to the terms and conditions of this Agreement;
- D. In relation to the provision of the Services the parties wish to work in a collaborative way towards achieving the goal of health improvement in the Province and its referral areas (this collaborative relationship is to be governed by the principles of mutual trust and respect, respect for the autonomy and independence of each party within and having regard to existing legal frameworks, shared learning and the acknowledgement of each party's complementary expertise); and
- E. The Operator is to effectively lead the delivery of the Services within the contracted framework and remuneration plan, all in a manner oriented to improving the health of the citizens of the Province and its referral areas.

THEREFORE the parties hereto agree each with the other as follows:

1.0 Interpretation

1.1 Definitions/Principles in Schedule "A".

The definitions and principles of interpretation applicable to this Agreement are described in Schedule "A" attached.

2.0 Representations and Warranties

2.1 Mutual Representations and Warranties

Each Party represents and warrants to the other Party that as of the Effective Date and at all times during the Term:

- (a) the Party is duly constituted, in good standing and validly existing under the laws in force in the Province of Alberta;
- (b) the Party has all necessary corporate power, authority and capacity to enter into this Agreement and to carry out its obligations under this Agreement;
- (c) the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action on the part of the Party; and
- (d) the Party it is not a party to, bound or affected by or subject to any indenture, mortgage, lease, agreement, obligation, instrument, chart, by-law, order, judgment, decree, licence, law (including regulations) or governmental authorization that would be violated, breached by, or under which default would occur or an encumbrance would, or with the notice or the passage of time would, be created as a result of the execution and delivery of, or performance of obligations under, this Agreement or any other agreement to be entered into under the terms of this Agreement.

2.2 Operator Representations, Warranties and Covenants

The Operator represents, warrants and covenants to AHS that as of the Effective Date and at all times during the Term:

- (a) there is no action, proceeding or investigation pending or, to its knowledge, threatened against the Operator before or by any court, governmental department, commission, board, agency, person or domestic or foreign corporate body that may result in a material adverse change in the business condition, financial or otherwise, of the Operator, or that questions the validity of this Agreement, or any action taken or to be taken pursuant to or in connection with this Agreement;
- (b) in respect of the Services to which the Workers Compensation

legislation in the jurisdiction in which the Operator provides the Services applies, it is registered and in good standing in accordance with such legislation; and

- (c) this Agreement constitutes a legal, valid and binding obligation of the Operator enforceable against it in accordance with its terms.

3.0 Engagement

3.1 Service Provision

Subject to, and in accordance with, the terms and conditions in this Agreement, the Operator will provide the Services (either directly or by making its facilities and services available to other Physicians) to:

- (a) those Clients of Physicians who arrange for use of the Facility for the purposes of providing surgical services to such Clients, or
- (b) in cases only where referral by a Physician is not required, those Clients who present themselves directly to the Operator and who request the Services,

provided that in each instance, the provision of the Services requested is both clinically and ethically appropriate, constitutes the provision of a service which is Insured to a person eligible to receive those Services and is provided during the Term.

3.2 Location and Accreditation Restrictions

The Services will only be provided within the Facility and only if and so long as the Facility remains properly Accredited and Designated. If and whenever the Facility ceases to be properly Accredited or Designated for the provision of any or all of the Services:

- (a) the Operator will immediately advise AHS and cease either performing or allowing the Services (or those of the Services impacted by the cessation where not all of the Services are so impacted) to be performed so long as the lack of Accreditation or Designation continues; and
- (b) AHS shall have the right to terminate the Agreement on notice to the Operator in whole, or with respect to that portion of Services affected where the cessation of being Accredited or Designated impacts only a portion of the Services.

If and whenever the Facility is placed under conditional or probationary status or becomes subject to a directive, requirement or limitation imposed by either the CPSA or the Minister or any other Professional Governing Body having jurisdiction (as applicable), the Operator will immediately advise AHS of the directive, requirement or limitation and shall immediately and fully take such steps as are required to either

remove the conditional or probationary status or to comply with the directive, requirement or limitation, as the case may be.

3.3 No Right to Re-locate

The Operator shall not use any location for the performance of the Services other than the Facility without the prior written approval of AHS and the Minister. Where the Operator desires to provide the Services at a location other than the Facility, the Operator shall provide AHS and the Minister with reasonable details of the location and equipping of the proposed site and evidence of its being Accredited and Designated to the extent required under Applicable Laws, such notice to be submitted to AHS and the Minister not less than ninety (90) days in advance of the proposed effective date of the re-location or the addition of the new location. The Operator shall also afford AHS' and the Minister's representatives a reasonable opportunity to inspect the proposed site prior to commencing providing the Services at that site. There is no right to relocate the Facility without AHS and Minister's approval.

3.4 Implied Inclusions in Services

Where any goods, materials, services, equipment, facilities or personnel (including without limitation all personnel providing professional or administrative services) are required for the proper and timely performance and provision of the Services and such goods, materials, services, equipment, facilities or personnel are not expressly or completely described in this Agreement, the provision of the Services by the Operator using such goods, materials, services, equipment, facilities and personnel shall be deemed to be implied and required by this Agreement at no additional cost to AHS.

3.5 No Guaranteed Minimums or Exclusivity

Schedule "B" sets forth the maximum achievable Service Fees payable under this Agreement based on anticipated volumes using AHS' current best estimates of demand over the Term. This maximum amount will further be dependent on AHS' available financial resources during the Term. The Operator specifically acknowledges and agrees that AHS does not represent or warrant that the stated maximum Service Fees or volumes of procedures or any specified proportions thereof, will be realised or achieved by the Operator. Unless expressly provided for in Schedule "B", AHS does not guarantee to the Operator:

- (a) any minimum in terms of the quantity of Services which will be required,
- (b) a minimum amount of funding in relation to the undertaking by the Operator of the Operator's obligations under this Agreement, or
- (c) any right of exclusivity in terms of the provision of services of the nature and type of the Services, in the Province or any part

thereof.

3.6 Procedure Quotas

- (a) AHS will allocate cataract quotas to eligible individual Physicians using the block booking formula utilized by the Department of Surgery in Calgary on a quarterly basis reflecting the number of cataract procedures the Physician may perform, such that the maximum cumulative cataract procedures (as identified in Schedule "B") per annum are reasonably distributed amongst the Physicians over the course of a year.
- (b) Non-cataract procedure activity as described in Schedule "B" will be monitored and reviewed at Calgary Ophthalmology Section meetings at which all Operators are eligible to attend. Non-cataract activity may be limited based on funds available and may be re-assigned among eligible individual Physicians by the Section Chief from time to time during the Term based on the available pool of funding, up to the maximum amount of funding available.
- (c) The Operator hereby acknowledges that the amount of Service Fees achievable by the Operator is entirely dependent on the number of Physicians working at the Facility at any given time during the Term and that AHS has no controllability whatsoever to influence a Physician's choice of Facility in which to perform his or her allocated procedures.
- (d) The Operator shall permit the Physician to perform, in the Facility, all procedures permitted by the quota that the Physician chooses to perform, and, subject to Section 3.7(c), shall not in any way attempt to limit the procedures or alter the quotas.

3.7 Physician Relocation

- (a) The Operator shall ensure that any Physician performing procedures at the Facility shall enter into an agreement with the Operator in which the Physician agrees, subject to Paragraph 3.7(b), not to relocate to any other NHSF during the Term of this Agreement without providing at least three (3) months' written notice to the Operator.
- (b) AHS acknowledges that there may be exceptional circumstances in which the Facility Operator may wish for a Physician to relocate to a different NHSF during the Term. In such circumstances, the Operator shall be required to submit a written request with supporting documentation, if any, to the Section Chief of Ophthalmology, Department of Surgery detailing the reasons for wishing the Physician to relocate. The Section Chief of Ophthalmology, Department of Surgery shall have two (2) weeks to attempt to resolve the situation. If the situation is not rectified in that time frame, then the Operator shall be entitled to provide written

notice to the Physician requiring the Physician to relocate to another NHSF in three (3) months time.

4.0 Access to Services

4.1 General Legislative

The Operator agrees that, in providing access to Clients to the Services and without limiting any other provisions in this Agreement, the Operator will comply in all respects with the provisions of the *Canada Health Act* (Canada) and the *HCP Act*. Without limiting the generality of the foregoing:

- (a) all Clients obtaining Services from the Operator shall receive the Services on a fair, equal and consistent basis to the extent clinically appropriate in accordance with the clinical standards generally in use within the Province. Without limiting the generality of the foregoing, the Operator will not favour Clients with less complicated clinical concerns over those with more complicated clinical concerns;
- (b) the Operator shall neither deprive any Client of access to the Services nor give any Client requiring or requesting the Services priority over any other Client where such access or priority is in any way based on, or related to, the Operator receiving money or other valuable consideration or the Operator receiving payment for Enhanced Medical Goods or Services or Non-Medical Goods and Services or the Operator having the opportunity to provide services which are not Insured;
- (c) the Operator shall not charge any Client or other person or entity (other than AHS in accordance with Schedule "B") any amount relative to the provision of the Facility or Services provided by the Operator pursuant to this Agreement;
- (d) the Operator shall strictly comply with the requirements of the HCP Act (and regulations thereunder), including without limitation all requirements related to the provision of any Enhanced Medical Goods or Services or Non-Medical Goods or Services, and will provide to AHS copies of all documentation provided to, or executed by, Clients related to any such goods or services provided in the Facility in the course of providing the Services. Requiring Non-Medical Goods and Services to be sold as a condition of selling Enhanced Medical Goods and Services is specifically prohibited. "Bundling" of charges for Enhanced Medical Goods and Services with charges for Non-Medical Goods and Services is also expressly prohibited; and
- (e) Enhanced Medical Goods or Services may only be charged for if the items supplied are listed in, or otherwise able to be supplied in compliance with, the HCP Act and Regulations and all consents

and requirements of the HCP Act and Regulations related to the supply are met.

5.0 Service Fees

5.1 Amounts Payable

- (a) AHS shall pay the Operator for the Services provided at the Facility during the Term in accordance with this Agreement based on the provisions in Schedule "B". The parties acknowledge that the Service Fees do not represent payment for any surgical services provided by Physicians and able to be billed by such Physicians directly to Alberta Health and Wellness and further acknowledge that AHS is not by this Agreement undertaking any liability or responsibility for the payment for professional surgical services rendered at the Facility apart from the amounts described in Schedule "B".
- (b) The maximum amounts payable by AHS, both per procedure and in the aggregate, are set out in Schedule "B".
- (c) The Service Fees represent compensation to the Operator for all resources required to be provided by the Operator to perform the Services at the Facility other than the Physician services compensated for directly by Alberta Health and Wellness.

5.2 Invoicing and Payment

Service Fees payable to the Operator for the Services are to be invoiced by the Operator on a monthly basis within fifteen (15) days of the end of the month in which the Services were performed and amounts payable by AHS will, subject to Section 5.5, be paid to the Operator within forty-five (45) days of receipt of a proper invoice for the amount payable.

5.3 Right to Withhold Payment

AHS reserves the right to withhold payments from the Operator if the Operator fails to comply with the reporting requirements set out in this Agreement.

5.4 Goods and Services Tax

Service Fees are not to include any "goods and services tax" so long as AHS is exempted from paying such taxes. Invoices for Services received more than forty-five (45) days after the end of the month in which the Services were performed need not be considered for payment by AHS.

5.5 Invoice Disputes

Notwithstanding AHS' obligation under Section 5.2, if AHS reasonably disputes any item in an invoice, it shall provide the Operator with notice of

the dispute, including an explanation of the reasons for such dispute, within five (5) Business Days of its recognizing the dispute and AHS shall not be obliged to pay the disputed item until AHS and the Operator have resolved the dispute.

6.0 Term of Agreement, Termination and Remedies

6.1 Term

Subject to both delay in commencement and earlier termination as contemplated by this Agreement and subject to extension pursuant to Section 6.3, the term of this Agreement shall be for the period commencing on April 1, 2012 and expiring on March 31, 2017.

6.2 Conditions Precedent

Express conditions precedent to this Agreement and the engagement of the Operator by AHS having any force or effect are as follows:

- (a) the Minister shall have approved this Agreement; and
- (b) the Facility shall have been Designated by the Minister as required pursuant to the HCP Act.

If these conditions are not fulfilled as at the date of this Agreement then, notwithstanding any other provision to the contrary, this Agreement shall not come into effect unless and until the Minister's said approval and Designation is granted and neither party shall have rights or obligations relative to this Agreement until that time. If these conditions are not fulfilled by the date which is ninety (90) days after the commencement date stated in Section 6.1, either party may terminate this Agreement on notice to the other at any time thereafter.

6.3 Renewal

Subject always to receipt of all required approvals from the Minister to any renewal, AHS shall have the right to extend the term for a period of twelve (12) months on the same terms and conditions as are contained in this Agreement by written notice to the Operator given not later than 180 days prior to the then current expiry date of the Agreement. Where the Minister fails to approve of any renewal by the proposed commencement date of such renewal period, this Agreement shall terminate on the expiry of the then current term.

6.4 Default

In the event that either Party (the "**Non-defaulting Party**") determines that the other Party (the "**Defaulting Party**") is in breach of any term or condition of this Agreement, unless the breach is a Substantial Breach, the Non-defaulting Party shall give the Defaulting Party fourteen (14) days from the day of written notification of the breach for the Defaulting Party to

remedy the breach or if the breach cannot reasonably be cured within such period, provided the Defaulting Party proceeds to diligently remedy the default, such additional period of time as is reasonably required to remedy the breach, as determined by the Non-defaulting Party, acting reasonably.

6.5 Termination Rights

This Agreement shall be subject to termination at any time throughout the Term upon the occurrence of any one or more of the following:

- (a) **Termination for Convenience.** Either Party shall have the right to terminate for its convenience this Agreement for any reason on one hundred and eighty (180) days' advance written notice to the other Party. Notice may be waived by mutual agreement in writing of both Parties.
- (b) **Termination for Substantial Breach.** In the event of a Substantial Breach, the Non-defaulting Party shall, without limiting any other rights it may have in law or equity, have the right to immediately terminate this Agreement without cost, penalty, or process of law upon written notice to the Defaulting Party.
- (c) **Termination for Material Change.** If Alberta Health and Wellness or any other government department or agency makes any material changes affecting AHS or the delivery of the Services after the commencement of the Term and if such change can reasonably be expected to materially and adversely affect either Party's ability to perform its obligations under this Agreement without suffering undue economic hardship or risk, that Party may terminate this Agreement on sixty (60) days notice to the other Party.

6.6 Termination Payments

In the event of a termination under Sections 6.5(a), termination payment to the Operator or refund to AHS, if any, shall be promptly and mutually agreed to by AHS and the Operator, based on:

- (a) that portion of the Services satisfactorily performed to the date of the cancellation in accordance with the terms of this Agreement; and
- (b) reasonable and necessary expenses directly resulting from the termination, all as substantiated by documentation satisfactory to and verified by AHS.

The Operator shall not be entitled to any loss of prospective profits, contribution to overhead or incidental, consequential or other damages because of such termination.

6.7 Other Remedies

In addition to the rights of termination set forth above, AHS shall, in the event of any breach by the Operator of any obligations under this Agreement, be entitled to exercise one or more of the following remedies:

- (a) impose any further and additional term, condition or requirement on the provision of Services that AHS, acting reasonably, deems necessary or appropriate;
- (b) procure or otherwise obtain alternative services from any person in replacement or substitution of the affected Services during any period of time that the Operator is in breach of its obligations under this Agreement and for a reasonable period of time thereafter, which includes setting off any amounts payable to such other person against Service Fees otherwise payable to the Operator;
- (c) in respect of any breach by the Operator which, in the reasonable opinion of AHS, jeopardizes the care, safety or health of any Client:
 - (i) immediately assume management and control of the Services, or delegate such responsibility to an alternate operator, during the continuance of any breach and receive and apply the revenues from AHS payable under this Agreement and recover all incremental costs associated with assuming management and control of the Services; or
 - (ii) relocate or redirect Clients during the continuance of any breach and AHS will be entitled to receive and apply the revenues from AHS generated under this Agreement and recover all incremental costs associated with relocating or redirecting Clients;
- (d) withhold and suspend payment of any amount otherwise payable by AHS in respect of the Services while a breach remains unremedied, in which case the Operator may receive all suspended and withheld payments upon the breach being waived or remedied to the satisfaction of AHS;
- (e) cancel the payment of any amount otherwise payable by AHS to the Operator in respect of the Services while a breach in respect of the Services remains unremedied by the Operator; and if the breach substantially deprives AHS or the Clients of the benefit of the Services, the Operator will conclusively forfeit any entitlement to the applicable Service Fees; or
- (f) pursue any other remedy available at law or in equity to AHS.

6.8 Events upon Termination

- (a) If this Agreement is terminated, cancelled or ends for any reason, the Operator shall:
 - (i) promptly forward to AHS, all reports required pursuant to the terms of this Agreement;
 - (ii) at the request of AHS, return to AHS any Confidential Information; and
 - (iii) promptly provide to AHS an invoice for any Services provided under the terms of this Agreement up to the date of termination for which it has not been paid. The invoice shall appropriately identify the Services provided to AHS and shall be in such format as required by AHS.
- (b) Commencing upon any written notice of termination of this Agreement, the Operator will:
 - (i) continue to provide Services in accordance with the terms of this Agreement during the termination assistance period and assist AHS to facilitate the orderly transition and migration of Services to any alternate operator to allow the Services to continue without interruption or adverse effect;
 - (ii) develop, in consultation with AHS, a mutually agreed to termination assistance plan for transition of the Services from the Operator to any alternate operator; and
 - (iii) after this Agreement terminates, provide answers to questions from any alternate operator regarding the Services, systems and any other material provided by the Operator to AHS under this Agreement on an "as needed" basis for a period of three (3) months or such other time period that the Parties agree to.

7.0 Laws, Rules, Policies, Standards and Guidelines

7.1 Compliance Commitment

In the provision of the Services, the Operator will comply with, and will ensure the compliance by all persons involved in the provision of the Services within the Facility with, all of the following, as amended from time to time:

- (a) all Applicable Laws;
- (b) all directives, rules, policies, standards, performance expectations, clinical requirements and guidelines established from time to time by AHS, the CPSA, any other Professional Governing Body

having jurisdiction, or the Minister in relation to the provision of the Services at the Facility, including without limitation the Quality Standards and Expectations described in either the Proposal (if applicable) or Schedule "C" attached, as amended from time to time;

- (c) the requirements of all permits, licenses, certificates or approvals applicable to the Operator, all persons operating within the Facility, the Services or the Facility;
- (d) the requirements of all applicable Medical Staff Bylaws;
- (e) the reporting requirements described in Schedule "D"; and
- (f) all Applicable Policies.

7.2 Conflicts of Interest

- (a) The Operator shall immediately advise AHS whenever the Operator becomes aware that any member, agent or senior officer or employee of AHS may be in a conflict of interest (as prescribed by the Conflict of Interest Bylaw) and the Operator shall refrain from taking or approving or participating in any acts or omissions which could result in any of the said persons being in a conflict of interest.
- (b) The Operator shall immediately advise AHS of any allegations of conflict of interest made against the Operator and hereby authorizes the CPSA or any other Professional Governing Body having jurisdiction to provide to AHS any information related thereto in its possession.

7.3 Ethical Issues

The Operator agrees to comply with all Applicable Laws and all ethical requirements imposed on it or Physicians involved in the Services and to report to AHS and all interested Professional Governing Bodies any circumstances of which it becomes aware which could involve a breach of ethical requirements by it or any such Physician.

8.0 General Commitments Related to Services

8.1 Specific Services-Related Commitments

The Operator commits to AHS that the Services as provided in the Facility will:

- (a) comply in all respects with the requirements of this Agreement and good clinical practice;
- (b) be performed by fully trained, qualified and accredited Staff (on an

ongoing basis);

- (c) be performed using equipment which is in good condition, which is suitable and adequate for the use being made and which has received such approvals and licenses as are required for proper operation in accordance with the requirements of all Applicable Laws, regulatory authorities and the manufacturer, where applicable; and
- (d) be performed in a manner which reasonably ensures that all medical records related to Services performed at the Facilities will be transferred or transmitted accurately and expeditiously (by courier or electronic means, subject always to the form of transfer or transmittal used meeting the requirements of all Applicable Laws related to privacy and protection of data) to all those persons responsible for the ongoing care, if any, of Clients, in every case and AHS, when requested.

8.2 Specific Facility-Related Commitments

In providing the Services at the Facility, the Operator will:

- (a) ensure that the Facility, at all times during the Term, is in full compliance with Article 7 of the CPSA's NHSF Standards and Guidelines, as amended; and
- (b) maintain all Accreditations for the Facility, Equipment and all personnel involved in the provision of the Services required, under Applicable Laws or by the CPSA or any other Professional Governing Body having jurisdiction.

8.3 Ancillary Obligations

The Operator agrees with AHS to:

- (e) collaborate with AHS in focusing on approaches to the provision of the Services which ensure that the Services as provided are part of a health system which optimizes resource utilization and provides services which are of high quality, efficient and effective and which ensures that the Services as provided by the Operator are provided in a manner and to a standard not less than that provided in public hospitals;
- (f) accommodate the implementation of any clinical practice guideline developed from time to time by those clinical departments/divisions/sections in the Province relevant to the performance of the Services;
- (g) collaborate and cooperate with AHS on a continual basis in the development and implementation of innovative projects or processes relating to the provision of surgical services in the

Province of, or similar to, the nature and type of the Services, including without limitation those related to:

- (i) assisting with the development of a Provincial standardized waitlist;
- (ii) assessing the health needs in the Province,
- (iii) assessing resource utilization in the Province,
- (iv) developing continuous improvements,
- (v) evaluating the cost effectiveness of the Services; and
- (vi) developing processes to accommodate expected future changes to Clients requiring services (e.g. population ageing, criteria expanding),

and to implement within the Facility all related AHS quality assurance and monitoring activities developed;

- (h) act reasonably to meet volume demands within criteria established and funding available as specified in this Agreement;
- (i) participate in technology assessment, including equipment, testing protocols and procedures;
- (j) incorporate specific outcome measures for the Services;
- (k) inform AHS of any new technology/practice procedures related to the Services which are discovered and which appear to have a reasonable potential to significantly impact either Client care or the cost of providing the Services;
- (l) obtain the written approval of AHS prior to use of new technology/practice procedures in connection with the Services; and
- (m) refrain from performing services of the nature and type of the Services either which are in excess of the maximum volume(s) of the Services contemplated in Schedule "B" or which would result in the dollar maximum in Schedule "B" being exceeded if the said services were paid for (which payment is not required by this Agreement).

8.4 Membership in Medical Staff

Subject to Section 8.5, all Physicians engaged in performing the Services must be members of the Medical Staff with privileges entitling them to perform surgical services of the type and character of the Services. The Operator shall be responsible to AHS to ensure that the provisions of this Section are continuously complied with.

8.5 Alternate to Membership in Medical Staff

Where membership in the Medical Staff is not possible or practicable for any Physician proposed to provide some or all of the Services either due to the Medical Staff Bylaws not contemplating the granting of appointments or privileges outside hospitals and such Physician not practicing or continuing to practice within any hospital in the area where the Facility is located or due to such Physician not being subject to the Medical Staff Bylaws, that Physician may still provide the Services at the Facility if and only so long as the following conditions are fulfilled:

- (a) that Physician submits all information to AHS as would be required for a physician to become entitled to become or to remain a member of the Medical Staff in the area where the Facility is located holding privileges sufficient to perform the Services together with an undertaking to be bound by the Medical Staff Bylaws insofar as the provision of the Services;
- (b) AHS approves of the Physician providing the Services, such approval to be granted or withheld in a manner consistent with the Medical Staff Bylaws; and
- (c) the Physician complies with all requirements of the Medical Staff Bylaws to the same extent as if he or she were a member of the Medical Staff.

9.0 Complaint and Incident Processes

- (a) Client Complaints. The Operator and AHS shall promptly inform the other party of any material complaints, concerns or grievances made to or against the Operator with respect to the Services. The Operator acknowledges that AHS is required to establish and maintain a patient concerns resolution process in accordance with the Patient Concerns Resolution Process Regulation (AR 124/2006) and that AHS has been advised by the Office of the Alberta Ombudsman that all contracted service providers are also required to have a patient concerns resolution process in place. The Operator shall comply with the Patient Concerns Resolution Process in Schedule "D", Appendix 5.
- (b) Incident Reporting Process. If an incident occurs in respect of a Client, the Operator shall promptly report the matter to AHS and shall thereafter comply with all requirements of AHS in accordance with the Incident Reporting Process set out in Schedule "D", Appendix 4.
- (c) The Operator will report all concerns raised regarding clinical or non-clinical practices by persons engaged in performance of the Services to both the College (or any other Professional Governing Body having jurisdiction) and AHS' appropriate clinical administrators as soon as is practicable in the circumstances.

- (d) The Operator hereby authorizes the College and any other Professional Governing Body (as applicable) involved in reviewing any Reportable Incident or clinical practices to provide to AHS any information related thereto in the College's or other Professional Governing Body's possession.

10.0 Educational Programs, Research and Public System

10.1 Educational Support

Having regard to the resources reasonably available to the Operator for such purposes, the Operator will cooperate with and assist AHS (and appropriate educational institutions) in the pursuit of their respective missions to educate students in medicine and other health disciplines in the Province. Without limiting the foregoing, the Operator's involvement will include the participation of students in work experiences, including:

- patient care,
- surgical and anesthetic teaching and assisting,
- counselling and technical evaluation of patients, pre-operatively and post-operatively, and
- development, evaluation and completion of research protocols.

Facility fees for teaching procedures are included in the Service Fees and are set out in Schedule "B" attached hereto.

10.2 Research Support

- (a) Having regard to the resources reasonably available for such purposes, the Operator will cooperate with AHS to provide such participation by its Staff as may be reasonable in relation to the carrying out of research within the Province.
- (b) The Operator agrees to promptly notify AHS in the event that it undertakes or agrees to participate in any form of clinical trial, research project, instrument use, or similar activity which in any way relates to the Services provided under this Agreement. The Operator shall, upon request, provide AHS with written evidence of Client disclosure and consent to research.

10.3 Clinical Support

In arranging for Physicians and other Staff to provide the Services, the Operator shall use all reasonable efforts to ensure that the pool of Physicians and other health care professionals required by AHS or other hospital operators in the Province to provide clinical services within publicly funded hospitals operated by them is not materially and adversely impacted. For the purposes of implementing this provision, the Operator will, prior to recruiting any Physician or other health care professional then practicing in any hospital in the Province, consult with AHS as to the impact such recruitment would have on the ability of AHS (or the operator of the hospital, as the case may be) to meet the expected needs of Clients.

Where any recruitment by the Operator can reasonably be expected to unduly jeopardize the then current clinical resources of publicly funded hospital facilities in the Province, the Operator shall not proceed with the recruitment.

11.0 Audit and Reporting

11.1 Right to Inspect and Audit

AHS and the Minister shall have the right (including all access rights required) to inspect or audit the Facility and all of the equipment, Staff and records of the Operator (and to take copies of records where either desires to do so) related to Services performed or to be performed (and goods and services sold or otherwise provided to persons receiving such Services) at all reasonable times and without prior notice in cases of emergency or whenever there is any reasonable apprehension of any ongoing danger to Clients for the purposes of determining compliance with this Agreement, the accuracy of any information provided and compliance with all Applicable Laws.

11.2 Overpayments

Where an audit under Section 11.1 reveals that the Operator has charged AHS amounts for which Service Fees were not payable at the time when the Service Fees were payable, the Operator shall, within thirty (30) days from the receipt of a written statement of overcharges from AHS, pay to AHS an amount equal to one hundred (100%) percent of the overcharged amount in addition to all reasonable costs incurred by AHS in the inspection or audit, unless otherwise expressly agreed to in writing by AHS.

11.3 General Duty to Report

The Operator will provide AHS or the Minister with such information related to the performance of the Services from time to time as may be requested by AHS or required by Applicable Laws including without limitation any information or report required by this Agreement. Any information provided to AHS may be provided to the Minister.

11.4 Potential Breaches

The Operator shall promptly advise AHS in writing, giving reasonable details, of any circumstance of which it becomes aware, with respect to an existing or potential breach of any of the provisions of this Agreement.

11.5 Material Changes

The Operator shall promptly advise AHS in writing, giving reasonable details, of any actual or potential material change to the business, ownership, financial condition, operations or conduct of the Operator, including without limitation:

- (a) any actual or proposed change that would result in an increase to the Net Debt to Total Equity Ratio in excess of 5%; or
- (b) any actual or potential actions, suits or proceedings relating to the Operator, its business or assets.

11.6 Financial Information

The Operator covenants and agrees to:

- (a) generate and submit to AHS, no later than one hundred and eighty (180) days following the Operator's fiscal year end, all consolidated audited financial statements for financial review, prepared in accordance with Canadian GAAP. In the alternative, and with AHS' prior written approval, if audited financial statements are not available, financial statements prepared in accordance with Canadian GAAP, as provided and reviewed in accordance with the generally accepted auditing standards of the Institute of Chartered Accountants, Society of Certified General Accountants or the Society of Certified Management Accountants, may be submitted as a substitute;
- (b) provide to AHS interim financial statements prepared in accordance with Canadian GAAP upon ten (10) days written notice from AHS, acting reasonably; and
- (c) provide to AHS, upon request, acting reasonably, any information regarding the operations and the financial condition of the Operator that AHS may request from time to time in its sole discretion.

All statements under this Section 11.6 shall be delivered in a sealed envelope addressed to:

Business Advisory Services
Attention Ms. Marina Sizov
Southport Tower
10301 Southport Lane SW
Calgary, AB T2W 1S7

11.7 Supporting Documentation Required

The Operator shall provide AHS with the following supporting documentation in accordance with the frequency set out below:

- (a) prior to execution of the Agreement, the Operator's certificate of incorporation/amalgamation, constating documents (e.g. articles of incorporation, bylaws, memorandum of association, etc.), and Canada Revenue Agency charitable number, if applicable;

- (b) prior to execution of the Agreement, a certificate of status from Alberta Corporate Registry stating the corporation is valid and subsisting, if applicable;
- (c) a current list of the Operator's board of directors and organizational chart to be provided forthwith and again at any time a change in the membership occurs during the Term;
- (d) prior to execution of the Agreement, copies of all applications and Accreditations and Designations obtained;
- (e) thereafter, copies of all inquiries, applications, results of reviews, renewals or replacements relating to the Services provided under this Agreement, as it concerns maintaining all such Accreditations and Designations;
- (f) when requested, evidence of policies, designation of responsibilities, compliance of employee safety programs and Workplace Hazardous Materials Information Systems;
- (g) prior to execution of the Agreement and every year during the Term thereafter, certificates of insurance evidencing full compliance with Article 15; and
- (h) prior to execution of the Agreement, a certificate evidencing the Operator's registration and good standing with Alberta Worker's Compensation Board or if the Operator is exempt from the requirements of the *Worker's Compensation Act* (Alberta), a copy of the letter of exemption.

12.0 Assignment and Ownership

12.1 Assignment

- (a) AHS shall have the right to assign this Agreement without the prior written consent of the Operator.
- (b) The Operator shall not assign, subcontract or transfer this Agreement, in whole or in part, without the prior written consent of AHS and the Minister, which may be arbitrarily and unreasonably withheld. Any purported assignment, subcontracting or transfer by the Operator without AHS' prior written consent shall be void and of no force or effect.

12.2 Ownership or Control

The Operator shall comply with the following provisions:

- (a) concurrently with execution of this Agreement, the Operator shall, if it has not previously done so, certify and submit to AHS all of the

ownership and control information related to the Operator and the Facility contemplated by the HCP Act and regulations;

- (b) the Operator will advise AHS of any proposed changes in the ownership or control of either the Operator or the Facility during the Term whenever and as frequently as such changes occur, such notice to be provided not less than sixty (60) days prior to the proposed effective date of the change;
- (c) the Operator shall not permit a change in either the ownership or control of either the Operator or the Facility during the Term, without the prior written consent of the Minister. For the purposes of this Agreement a change in ownership or control shall be deemed to occur if and whenever the same would occur pursuant to the HCP Act and regulations; and
- (d) where any change in ownership or control occurs and is approved by the Minister, the Operator shall update the requested ownership information provided to AHS and the Minister. No change in the ownership or control of either the Operator or the Facility shall occur until all approvals of the Minister or Professional Governing Body required pursuant to Applicable Laws have been obtained. The Operator shall provide AHS with copies of any applications for the Minister's approval to any change in ownership or control submitted by the Operator and, when issued, copies of all responses or approvals by the Minister to such applications.

12.3 Unauthorized Assignment or Change in Ownership

A failure by the Operator to obtain prior written consent in accordance with Sections 12.1 or 12.2 of this Agreement may, at AHS' sole discretion, result in immediate termination of this Agreement without further notice or process of law.

13.0 Operator Status

13.1 Independent Contractor

Nothing contained in this Agreement shall be deemed or construed by the Parties to create the relationship of partnership or joint venture or a relationship of principal and agent, employer-employee, master-servant, or franchisor-franchisee between or among the Parties and no provision contained in this Agreement shall be deemed to construe the role of the Operator other than an independent contractor. Except as specifically authorized in this Agreement, the Operator shall not have any authority of any kind to act on behalf of AHS and shall not purport to do so. The Operator shall be responsible for the actions or omissions of its Staff.

13.2 Client Designation

The Operator is a contracted provider of health care services independent of AHS. Clients who receive services or care by the Operator are the patients of the Operator and/or the Physicians directly engaged in providing the Services.

13.3 Control of Use of AHS' Name

The Operator shall not use the name of AHS in any way in relation to its business without the prior written consent of AHS except that the Operator may advise Clients that AHS is paying for Services provided to them, to the extent contemplated by this Agreement.

13.4 Right to Carry on Outside Practice

The Operator shall be entitled to provide medical services other than the Services at the Facility. Any services provided by the Operator at the Facility which are not part of the Services are not and shall not be deemed to be subject to the terms of this Agreement. The Operator agrees to manage the Facility in a manner which reasonably ensures that the provision of services other than the Services do not limit or otherwise compromise the provision of the Services as contemplated by this Agreement or unreasonably inconvenience Clients.

14.0 Confidentiality, Records and Public Relations

14.1 Disclosure of Confidential Information

The Operator acknowledges and agrees that the Confidential Information, received by it pursuant to this Agreement, is received on a strictly confidential basis and under a relationship of utmost confidence and trust.

14.2 Confidentiality Obligations

(a) The Operator acknowledges and agrees that all Confidential Information (as defined in Schedule "A") shall remain the sole property of AHS. The Operator shall take reasonable safeguards to ensure that all Confidential Information disclosed to Operator by AHS, or generated by Operator in the course of providing services under this Agreement is held in the strictest confidence after receipt of same.

(b) The Operator and AHS agree that the collection, use, disclosure, access, storage and disposal of Confidential Information pursuant to this Agreement shall be subject to and completed in accordance with the HIA and the FOIPP. The Operator shall comply with the provisions of the HIA, FOIPP and any other Applicable Laws, and this obligation shall survive the termination of this Agreement for as long as it holds or has access to Confidential Information.

- (c) Any collection, use or disclosure of Confidential Information by the Operator is considered to be a collection use or disclosure by AHS and shall be in accordance with the HIA, FOIPP and Applicable Policies.
- (d) If the Operator receives any request for Confidential Information, (under the HIA or FOIPP), it shall immediately refer such request to AHS and shall fully cooperate with AHS' response to such request, or, at the direction of AHS, respond to the request directly.
- (e) The Operator shall only collect, use, disclose, access, store and dispose of the minimum Confidential Information necessary to provide Services to AHS.

14.3 Confidentiality Restrictions

The Operator covenants and agrees that unless otherwise expressly agreed to in this Agreement, all Confidential Information shall:

- (a) be kept in strict confidence;
- (b) not be transported, accessed, used, dealt with, exploited or disclosed for any purpose other than as contemplated herein and in strict accordance herewith, and only for the purpose of providing the Services to AHS;
- (c) not be disclosed to any person other than Authorized Representatives and shall only be disclosed to or shared with such Authorized Representatives as strictly necessary for the Operator to provide Services to AHS;
- (d) be safeguarded against theft, damage or access by unauthorized persons by using reasonable administrative, technical and physical security measures in accordance with current industry standards and Applicable Policies;
- (e) be kept separate from all its other records and databases;
- (f) not be disclosed under any non Canadian law, rule order, or document and the Operator shall immediately notify AHS if it receives any subpoena, warrant, order, demand or request issued by a non Canadian court or other foreign authority for the disclosure of Confidential Information;
- (g) not be disclosed or transferred outside of Alberta; and
- (h) subject to Section 14.4 either destroy or return to AHS all Confidential Information immediately after it no longer needs it to provide Services to AHS.

14.4 Return or Destruction of Confidential Information

At any time upon the written request of AHS, the Operator shall immediately return to AHS or destroy any Confidential Information in whatever form it may be held by it or its respective Authorized Representatives.

14.5 Compliance with Agreement by Authorized Representative

The Operator shall, before disclosing any Confidential Information, to any Authorized Representative, ensure that the terms and conditions of this Agreement are and will be fully complied with by any such Authorized Representative, including obtaining a confidentiality agreement obligating the Authorized Representative to keep Confidential Information in strict confidence and to be bound by all terms and conditions of this Agreement. At the request of AHS, the Operator agrees to provide AHS with a list of all Authorized Representatives to whom Confidential Information has been provided and evidence in writing that the Authorized Representatives have agreed to be bound by the terms and conditions of this Agreement. The Operator agrees that it shall be liable and responsible for any breach of this Agreement by its Authorized Representatives.

14.6 Notice of Imminent Threat

(a) The Operator shall notify AHS immediately upon discovery by it that Confidential Information could be, or has been, released to a third party, or that as a result of the conduct of the Operator or any third party, AHS may suffer financial damage. The Operator shall fully cooperate with AHS' investigation of such incident (including allowing AHS to interview the Operator's Staff) and AHS' efforts to recover the Confidential Information and shall ensure that its Authorized Representatives are aware of their obligations under this Section. Notwithstanding any notification by the Operator to AHS under this Section 14.6, all obligations of the Operator with respect to the Confidential Information shall survive and continue to bind the Operator.

(b) The Operator shall immediately notify AHS if it becomes aware of, or receives a notice of an investigation conducted by the Office of the Information and Privacy Commissioner or any other government agency that relates to the Confidential Information. Operator shall fully cooperate with AHS in responding to any such investigation.

14.7 Legal Compulsion to Disclose

If the Operator or any Authorized Representative is or becomes legally compelled, by oral questions, interrogatories, requests for Confidential Information, documents, subpoena, civil investigative demand or similar

legal process, to disclose any of Confidential Information, the Operator or Authorized Representative to whom the request was made or who is legally compelled to disclose Confidential Information shall provide AHS with prompt written notice of same so that AHS may seek a protective order or other appropriate remedy. If such protective order or remedy is not obtained, the Operator or Authorized Representative, as the case may be, shall:

- (a) furnish only that portion of the Confidential Information which is legally required;
- (b) exercise its best efforts to obtain reliable assurance that the Confidential Information will be accorded confidential treatment; and
- (c) promptly provide to AHS copies of the Confidential Information that was disclosed along with the request made therefore.

14.8 FOIPP Act

The Operator acknowledges that AHS is a public body that must comply with FOIPP. AHS is not able to guarantee confidentiality of documents submitted to AHS in the normal course of business or otherwise, or to which AHS otherwise has a right of access. All documentation or other information submitted by the Operator to AHS, even those marked "confidential", may be subject to the privacy and disclosure provisions of FOIPP.

14.9 Access to Client Records

In compliance with HIA, the Operator shall permit AHS to receive reports on, or have access to, all Client information to the extent reasonably necessary:

- (a) to ensure proper payment for Services provided under the terms of the Agreement;
- (b) to judge performance of the Services by the Operator;
- (c) to facilitate the development or operation of an integrated health care system;
- (d) to meet the reporting requirements described in this Agreement;
- (e) for planning, legal and insurance purposes;
- (f) for audit and investigation purposes;
- (g) for education and research purposes; and
- (h) for any other purpose AHS is authorized to use individually

identifiable health information under the HIA.

14.10 Health Information Act

The Operator shall comply with the provisions of the HIA. Without limiting the obligations of the Operator under the HIA, in performing the Services under this Agreement, the Operator will comply with the following related to the collection and use of Client-related health information:

- (a) when requesting personal health numbers, advise the individual involved that such number will be provided to AHS acting in its capacity as a health authority;
- (b) when collecting information which will be provided to AHS, use forms or wording approved by AHS (where applicable) to inform the individual providing the information as to the purpose for which AHS is collecting the information, its authority to collect the information and a contact (title, business address and business telephone number) who will be available to answer that individual's questions about the collection on behalf of AHS; and
- (c) provide to AHS copies of those policies and procedures and any privacy impact assessments established or carried out from time to time by the Operator in compliance with the HIA.

14.11 Agreement A Public Document

The Operator expressly acknowledges that this Agreement may be published by AHS for public inspection during normal business hours and that certain information in this Agreement may be required to be published by AHS in a form and manner directed by the Minister.

14.12 Public Communications

AHS and the Operator will:

- (a) designate communication contacts to deal with performance, contractual or items of interest or concern of the other party; and
- (b) establish processes to handle matters that are not otherwise dealt with in this Agreement in such manner as to enhance the relationship between the parties.

Any and all formal media releases, advertising, promotional material, interviews or other formal communications with third parties relative to the relationship of the parties or the provision of the Services under this Agreement shall be coordinated between AHS and the Operator and shall be subject to the prior approval of AHS.

15.0 Indemnity, Liability and Insurance

15.1 Indemnity by Operator

The Operator shall have full responsibility for the care of its Clients and will indemnify and save harmless AHS, its officers, directors, employees, agents, volunteers and consultants (collectively and individually, the "Indemnified") against any claims, actions, suits, proceedings or demands whatsoever (any or all of the foregoing hereinafter, the "Losses"), insofar as such Losses arise out of or are based upon the actions, inactions or negligence of the Operator, its Staff, including any Physician or other health care provider engaged in the provision of the Services in the Facility. This indemnity shall survive the expiry or termination of this Agreement.

15.2 Liability

The Operator will be responsible to AHS for losses or costs suffered by AHS due to breach of this Agreement by the Operator.

15.3 Insurance

The Operator shall, at its own expense, obtain and keep in force during the Term of the Agreement:

- (a) Commercial general liability insurance covering bodily injury, property damage, contractual liability and personal injury with minimum limits of not less than five million dollars (\$5,000,000) per occurrence with an annual aggregate limit of not less than ten million dollars (\$10,000,000). The policy shall name AHS as an additional insured and shall contain severability of interests and cross liability provisions;
- (b) Automobile liability insurance covering all owned and non-owned automobiles used in the course of providing Services under this Agreement with a limit of not less than two million dollars (\$2,000,000) per occurrence;
- (c) Employers liability insurance covering the Operator for its liability to Staff providing Services within its facilities in an amount not less than one million dollars (\$1,000,000) per occurrence; and
- (d) Professional liability insurance covering the Operator and all Staff providing Services under this Agreement, other than Physicians, including coverage for bodily injury with a limit of not less than five million dollars (\$5,000,000) per occurrence and an annual aggregate limit of not less than ten million dollars (\$10,000,000).

If any of the above policies are written on a claims-made basis, they shall be maintained for a period of thirty nine (39) months following the termination or expiry of this Agreement. The required policies of

insurance shall be written with insurers licensed in the province of Alberta. Certificates of insurance evidencing the required insurance shall be provided to AHS upon execution of this Agreement and every year thereafter.

15.4 Workers' Compensation Requirements

The Operator will comply with the requirements of the *Workers' Compensation Act* and *Occupational Health and Safety Act* (including all regulations, orders and codes of practice established pursuant thereto) at all times during the Term and will, on request of AHS from time to time, provide AHS with reasonable evidence of either such compliance or its exemption from compliance. In the event that the Operator is exempt under the *Workers' Compensation Act* (Alberta), it shall carry employer's liability insurance covering its Staff with a limit of not less than one million dollars (\$1,000,000) per occurrence.

15.5 Physician Insurance

The Operator will require that all Physicians providing Services under this Agreement carry professional liability insurance with limits of not less than five million dollars (\$5,000,000) per occurrence with an annual aggregate of not less than ten million dollars (\$10,000,000). Membership of a Physician in the Canadian Medical Protective Association or in the Canadian Dentists Insurance Program, as applicable, shall satisfy the insurance requirements under this Agreement. Each Physician must do all things necessary to entitle himself to all defence and indemnification services offered by his respective association, or its equivalent, with respect to all losses or costs arising from Services provided under this Agreement.

16.0 Notice

16.1 Address and Form

Any notice given by a party hereto to any other pursuant to this Agreement shall be in writing and delivered personally or sent by prepaid registered mail addressed to the party to receive such notice at the address specified below or sent by fax to:

AHS:

Alberta Health Services
 Contracting, Procurement & Supply Management
 Suite 100, East Tower
 14310 – 111 Avenue
 Edmonton, Alberta Canada T5M 3Z7
 Attention: Manager, NHSF Contracts, Contracting, Procurement
 & Supply Management
 Fax Number: 780-342-0114

With a copy to:

Alberta Health Services
10101 Southport Road SW
Calgary, Alberta T2W 3N2
Attention: Senior Vice President and General Counsel
Fax: 403-943-0907

The Operator:

SAEC Surgical Ltd.
Suite 301, 5340-1 Street SW,
Calgary, Alberta T2H 0C8
Attention: Dr. Amin Kherani
Fax: 403-252-6677

16.2 Time of Delivery

Any notice delivered personally or by fax during normal business hours at an address specified above shall be deemed to be received the same Business Day, and any notice sent by mail or otherwise will be deemed to be received on the following Business Day. Any Party shall be entitled to change its address for notice to an address elsewhere in Alberta by notice in writing to the other Parties.

17.0 **Dispute Resolution**

17.1 Resolution by Negotiation

AHS and the Operator agree to utilize all reasonable efforts to resolve any dispute, whether arising during the Term or at any time after the expiration or termination of this Agreement, which touches upon the validity, construction, meaning, performance or effect of this Agreement or the rights or liabilities of the parties or any matter arising out of, or in connection with this Agreement, promptly and in a professional and amicable manner by negotiation between the appointed representatives of the parties, or depending upon the nature and extent of the dispute, by good faith negotiations conducted between the senior management of both parties. Whenever any party wishes to have a dispute referred to the senior management of both parties for possible resolution, that party may require the same to be so dealt with by senior management by notice to that effect to the other party.

17.2 Resolution by Arbitration

In the event that a dispute remains unresolved within ten (10) Business Days of being referred to the senior management of the parties for negotiation or resolution, then either party may initiate arbitration of the dispute pursuant to the terms hereof. Subject to any matters or issues specifically excluded from arbitration pursuant to the provisions of Section 17.3 hereof, any dispute that has proceeded through senior management without resolution shall be submitted for arbitration in accordance with the following requirements:

- (a) the party seeking to initiate arbitration shall give written notice thereof to the other party and shall set forth a brief description of the matter submitted for arbitration;
- (b) within ten (10) days of receipt of the notice of arbitration, the parties acting in good faith shall attempt to agree upon a single arbitrator for the purposes of conducting the arbitration;
- (c) in the event that the parties cannot agree upon a single arbitrator within the period set forth in Section 17.2(b) above, then the party initiating the arbitration shall forthwith nominate one arbitrator and thereupon notify the other party in writing of such nomination and the other party shall, within ten (10) days of receipt of such notice of nomination, nominate one arbitrator and the two arbitrators so nominated shall select a third arbitrator to act as chairman of the arbitration tribunal to act jointly with them. The parties will act reasonably and in good faith to select arbitrators who are objective and who are suitably qualified by education or experience to deal with the matters in issue;
- (d) any arbitration conducted pursuant to this Agreement shall take place in the Calgary and the parties shall meet with the arbitrator or the arbitration panel as the case may be, in order to establish procedures which shall govern the conduct of the arbitration and the rendering of the decision by the arbitrator or the arbitration panel.;
- (e) the decision of the single arbitrator, or a majority of the arbitration panel, as the case may be, in respect of all matters of procedure and with respect to the matter in issue shall be final and binding upon the parties;
- (f) the costs of the arbitration shall be borne as between the Operator and AHS in the manner specified in the arbitrator's decision or, in the absence of any direction by the arbitrator, costs shall be borne equally;
- (g) except as modified by this Agreement, the provisions of the Arbitration Act (Alberta), as amended from time to time, shall govern the arbitration process; and
- (h) the Operator and AHS shall continue the performance of their respective obligations during the resolution of any dispute or disagreement, including during any period of arbitration, unless and until this Agreement is terminated or expires in accordance with its terms and conditions.

17.3 Exceptions from Arbitration

Disputes on any of the following matters are expressly excluded from the

provisions of Section 17.2:

- (a) the amount of the Service Fees or any changes thereto;
- (b) any action by a party not to renew this Agreement;
- (c) the decision of a party to terminate the Agreement;
- (d) any party's entitlement to damages on account of the default of the other and the amount of damages suffered;
- (e) the suitability of a Physician to perform the Services in the circumstances contemplated by Section 8.5;
- (f) any action taken in respect of AHS' service standards or any revision or amendments thereto;
- (g) the interpretation of any legislation;
- (h) the decision of AHS to exercise any of the rights pursuant to Section 6.7; and
- (i) the existence and validity of any approval, Accreditation or Designation issued by the Minister or any other authority having jurisdiction or revocation of same.

IN WITNESS WHEREOF the parties have executed this Agreement all as of the date and year first above written.

ALBERTA HEALTH SERVICES

SAEC SURGICAL LTD.

Per: Original Signed

Per: Original Signed

Per: Original Signed

**Schedule “A”
Interpretation**

1.1 Definitions

In this Agreement including the recitals capitalized terms have the following meanings:

- (a) “Accredited” or “Accreditation” means, in respect of any proposed use of a facility, that the facility is approved for such use by the CPSA and by any other Professional Governing Body having any jurisdiction to do so.
- (b) “Agreement” means this agreement including the following Schedules attached:
- (i) Schedule “A” - Interpretation
 - (ii) Schedule “B”- Services and Service Fees
 - (iii) Schedule “C”- Quality Standards and Expectations
 - Appendix 1 Infection Prevention and Control Standards
 - (iv) Schedule “D”– Operator Reporting Requirements
 - Appendix 1 National Ambulatory Care Reporting System (NACRS)_For Mandatory Reporting to Alberta Health and Wellness
 - Appendix 2 Additional Elements Required for Data Management (EDW)
 - Appendix 3 Annual Reporting Template
 - Appendix 4 Incident Management Process
 - Appendix 5 Patient Concerns Resolution Process
 - (v) Schedule “E”- Enhanced Medical Goods
 - (vi) Schedule “F”- Applicable Policies
- (c) “Alberta Health Services” or “AHS” means the health authority described as a party to this Agreement in the introduction and its successors and assigns.
- (d) “Applicable Laws” means the Regional Health Authorities Act (Alberta), HCP Act, Hospitals Act (Alberta), Health Professions Act (Alberta), Public Health Act (Alberta), Alberta Health Care Insurance Act, Canada Health Act (Canada), Protection for Persons in Care Act (Alberta), Occupational Health and Safety Act (Alberta), HIA, PIPEDA, FOIPP Act, including all regulations and programs established pursuant thereto, together with all other federal, provincial and municipal laws, regulations and bylaws applicable to the provision of the Services, the Facility, the Operator or this Agreement, as amended from time to time.
- (e) “Applicable Policies” means the policies, bylaws, directives, regulations, guidelines, codes of conduct, rules, systems and procedures listed in Schedule “F” attached.

- (f) “Authorized Representative” means a representative authorized by the Operator to have access to the Confidential Information and shall be limited to those persons who need such access to provide the Services.
- (g) “Business Day” means any day, other than Saturday, Sunday or any statutory holiday in the Province of Alberta.
- (h) “Canadian GAAP” means Generally Accepted Accounting Principles as provided in the Handbook of the Canadian Institute of Chartered Accountants.
- (i) “Client” means any individual receiving or attempting to receive the benefit of the Services.
- (j) “Confidential Information” means:
 - (i) financial, operational, personal or business information, records and plans of or relating to either party;
 - (ii) health information, as defined in the HIA that is created, shared, accessed, or generated pursuant to this Agreement;
 - (iii) personal information, as defined in FOIPP that is created, shared, accessed, or generated pursuant to this Agreement;
 - (iv) any information that is created, shared, accessed, or generated pursuant to this Agreement which is required to be kept confidential by statutory or regulatory requirements as same may be amended, revised or substituted from time to time;
 - (v) writing is confidential or is marked or labelled as confidential; and
 - (vi) any other information that is created, shared, accessed, or generated pursuant to this Agreement which by its nature is to be kept confidential,

but excludes information (other than health information and personal information, as defined above) that the receiving party can demonstrate:

- (i) was known to the receiving party prior to its receipt from the other party as demonstrated by written records;
- (ii) was known to the general public prior to its receipt from the other party or subsequently becomes known to the public through no fault of the receiving party; or

- (iii) was obtained by the receiving party from a third party who is not under an obligation of confidentiality and has a lawful right to make such disclosure.
- (k) "Conflict of Interest Bylaw" means the Conflict of Interest Bylaw as made under the Regional Health Authorities Act (Alberta), as amended from time to time.
- (l) "CPSA" means the College of Physicians and Surgeons of Alberta.
- (m) "Designated" means, in respect of any proposed use of a facility, that the facility has been designated for that use by the Minister to the extent required pursuant to the HCP Act.
- (n) "Effective Date" means the later of, the stated commencement date for the Term in Section 6.1 and the date on which the conditions precedent referred to in Section 6.2 of the Agreement are fulfilled.
- (o) "Enhanced Medical Goods or Services" shall be as defined from time to time under the HCP Act.
- (p) "Equipment" means all equipment utilized by the Operator to provide the Services.
- (q) "Facility" means the Operator's facility located at #301, 5340 1st St. SW Calgary, Alberta T2H 0C8.
- (r) "Fiscal Year" means AHS' fiscal year which runs from April 1 to March 31.
- (s) "FOIPP" means the *Freedom of Information and Protection Act* (Alberta) as amended from time to time and includes all regulations promulgated pursuant to that Act from time to time.
- (t) "Force Majeure" means circumstances and conditions beyond the reasonable control of the party affected thereby which interferes with, delays or prevents performance of the obligations of that party under the terms of this Agreement provided that the non-performing party is without fault in causing or failing to prevent such occurrence, and such occurrence cannot be circumvented through the use of reasonable alternative sources, workaround plans or other means. Subject to the foregoing, an event of Force Majeure includes (i) explosions, fires, flood, earthquakes, catastrophic weather conditions or other elements of nature or acts of God, (ii) acts of federal, provincial or local governmental authorities or courts, or (iii) acts of war (declared or undeclared), acts of terrorism, insurrection, riots or civil disorders and does not include a failure to perform as a result of a party's lack of funds or financial ability or capacity to carry on business, as a result of

labour dispute affecting such party or as a result of a pandemic or similar form of epidemic.

- (u) “HCP Act” means the *Health Care Protection Act* (Alberta) as amended from time to time and includes all regulations promulgated pursuant to that Act from time to time.
- (v) “HIA” means the *Health Information Act* (Alberta) as amended from time to time and includes all regulations promulgated pursuant to that Act from time to time.
- (w) “IPC” means infection prevention and control.
- (x) “IPC Standards” means the Infection Prevention and Control Standards described in Schedule “C”, Appendix 1 as amended from time to time.
- (y) “Insured” means, in relation to the provision of any service, that such service is provided in circumstances under which a benefit is payable under the *Alberta Health Care Insurance Act*.
- (z) “Medical Staff” means the members of the medical staff pursuant to Medical Staff Bylaws.
- (aa) “Medical Staff Bylaws” means those medical staff bylaws which have been established from time to time by AHS or its predecessors and approved by the Minister and which are applicable to physicians practicing in hospitals or other health care facilities operating under its jurisdiction in the area in which the Facility is located.
- (bb) “Minister” means the Minister of Health and Wellness for the Province of Alberta and includes any other member of the Executive Council for Alberta charged with approving agreements under the HCP Act.
- (cc) “Net Debt” is calculated by adding short-term and long-term debt and subtracting cash and liquid assets.
- (dd) “Net Debt to Total Equity Ratio” is calculated by dividing Net Debt by total equity.
- (ee) “NHSF” means non-hospital surgical facility.
- (ff) “Non-Medical Goods and Services” shall be as defined from time to time under the HCP Act.
- (gg) “Operator” means the party described as such in the introduction to this Agreement and its successors and permitted assigns.
- (hh) “Physician” means an ophthalmologist, anesthesiologist, or other

specialist entitled to perform surgical services on Clients of the nature and type of the Services within the Province of Alberta.

- (ii) “Professional Governing Body” means any governing body having legislative authority to admit, control or regulate any of the Physicians practicing within the Facility.
- (jj) “Province” means the Province of Alberta.
- (kk) “Quality Standards and Expectations” means the requirements to be met and satisfied by the Operator in the performance of the Services as set forth in Schedule “C” attached hereto including all Appendices, as updated or amended from time to time.
- (ll) “Reportable Incident” means a situation in which a Client has suffered Harm or experienced a Close Call or any Hazard that could lead to Client harm, all in accordance with Schedule “D”, Appendix 4.
- (mm) “Services” means those services described in Schedule “B” attached.
- (nn) “Service Fees” means the amounts payable by AHS to the Operator for the Services in accordance with this Agreement.
- (oo) “Staff” means all individuals employed or otherwise retained by the Operator for any purpose related to the provision of the Services including the Operator’s employees, officers, directors, agents and all other third party service providers retained by the Operator in relation to this Agreement.
- (pp) “Substantial Breach” means the following:
 - (i) where the Operator makes a general assignment for the benefit of its creditors or a proposal under applicable bankruptcy legislation, or if a bankruptcy petition is filed and presented against the Operator or a custodian or receiver/manager or any other office with similar powers is appointed in respect of the Operator or its respective properties, or any substantial portion thereof,
 - (ii) a breach of any confidentiality provision of this Agreement;
 - (iii) the Operator abandons the performance of all or any part of the Services;
 - (iv) the Operator takes an action or fails to take an action which results in substantial harm or disrepute to the status and reputation of AHS;
 - (v) a breach of this Agreement not remedied in accordance

with Section 6.4;

- (vi) a breach of any of the terms of Articles 2, 12, 14 or Sections 15.3, 15.4 or 15.5 of this Agreement;
 - (vii) a breach that, in the opinion of AHS, acting reasonably, could affect the health or safety of a Client; or
 - (viii) an otherwise incurable breach of this Agreement.
- (qq) "Term" means the term of this Agreement including any extensions provided for pursuant to this Agreement.

1.2 Headings

The captions and headings appearing in the Agreement are inserted merely to facilitate reference and shall have no bearing on the interpretation of its provisions.

1.3 Conflicts

If there are any conflicts between the documents forming part of the Agreement, the documents will govern in the following order: (a) the body of the Agreement shall govern over all attachments, and (b) attachments other than the Proposal shall govern over the Proposal.

1.4 Severability

In the event any of the terms or conditions of the Agreement or their application to any party or circumstance other than the obligations to provide or pay for the Services shall be held invalid by any court or other authority having jurisdiction the remainder of the Agreement and the application to parties or circumstances other than those as to which it is held invalid shall not be affected.

1.5 Whole Agreement

The Agreement shall, when duly executed, supersede and replace all other existing agreements between the parties with respect to the subject matter. There are no representations, warranties or agreements, either written or oral, which are binding on the parties and which are not contained, or referred to, in the Agreement.

1.6 Waiver

No action or failure to act by a party shall constitute a waiver of any right or duty of that party under the Agreement except as specifically agreed to in writing.

1.7 Governing Law and Attornment

This Agreement shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein and each Party submits to the exclusive jurisdiction of Alberta courts in any proceeding related to this Agreement.

1.8 Survival

Termination of the Agreement shall not affect the validity of any provisions which are, expressly or by implication, to survive or to take effect on or after such termination.

1.9 Amendments

Amendments to the Agreement shall require the agreement of all Parties, shall be in writing and shall only become effective when approved by the Minister as contemplated by the *HCP Act*.

1.10 Time

Time is of the essence.

1.11 Juridical Day

Where any time period limited by this Agreement expires on a Saturday, Sunday or legal holiday in the province of Alberta, the time period is extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.

1.12 Force Majeure

- (a) Delay in, or failure of, a Party to carry out the duties, undertakings or obligations imposed on that Party pursuant to this Agreement shall not be deemed to be a breach under this Agreement if such delay or failure results from an event of Force Majeure.
- (b) The Party alleging a Force Majeure event shall notify the other Party in writing within three (3) days of obtaining knowledge of the occurrence of the Force Majeure circumstance. If the event of Force Majeure may have a negative impact on patient care, notice shall be provided as soon as the event of Force Majeure is known to the Operator. The notice shall include a report containing particulars of the Force Majeure including the anticipated duration thereof and assurances that reasonable action is, or shall be, taken to avoid or minimise its effects and the obligations under this Agreement that will be affected by the event.
- (c) In every case the Party alleging a Force Majeure event shall take reasonable action and undertake reasonably necessary measures to resume as soon as reasonably possible, the performance of its

duties, undertakings and obligations under this Agreement affected by the Force Majeure event.

- (d) Neither Party shall be liable for failure to perform any of its obligations under this Agreement, if and to the extent its performance is prevented, hindered or delayed by a Force Majeure event. The occurrence of a Force Majeure event shall not release the affected Party from its obligations hereunder, but shall merely suspend the performance of any obligation so prevented, hindered or delayed during the period of continuance of the Force Majeure event.
- (e) If a Force Majeure event results in the Operator being unable to perform the Services for a period of time that the Client considers, in its sole discretion, to be unreasonable given the nature of the Services, the Client shall have the right to terminate this Agreement on twenty-four (24) hours notice without any cost, penalty or process of law.

1.13 Injunctive Relief

In addition to the remedies provided elsewhere in this Agreement, in the event that any of the obligations of either party set forth in this Agreement are breached, the other party shall, if appropriate, have the right to seek injunctive relief to prevent the ongoing breach of such obligations.

Schedule "B"
Services and Service Fees

I. Description of Services

The Operator shall provide an Accredited and Designated Facility to enable ophthalmology surgeons privileged by Alberta Health Services to perform cataract and general ophthalmic surgical procedures in accordance with the terms of this Agreement, including the Clinical Standards and Reporting Requirements (the "Services").

In providing these Services, the Operator shall additionally adhere at all times with the accreditation requirements of the College of Physicians and Surgeons of Alberta and any designation requirement imposed by the Minister in respect of the Facility.

II. Service Fees

Pricing and procedure details provided in the original signed agreement.

III. Maximum Amount Payable

	Estimated Total Contract Value	Maximum Contract Value plus 30% contingency
April 1, 2012 - March 31, 2013	\$9,826,761.67	\$12,774,790.17
April 1, 2013 - March 31, 2014	\$9,826,761.67	\$12,774,790.17
April 1, 2014 - March 31, 2015	\$9,826,761.67	\$12,774,790.17
April 1, 2015 - March 31, 2016	\$9,826,761.67	\$12,774,790.17
April 1, 2016 - March 31, 2017	\$9,826,761.67	\$12,774,790.17

The Service Fees and the volumes described in this Schedule should not be taken to be a representation, warranty or guarantee by Alberta Health Services that the Facility will have sufficient insured procedures to achieve the stated maximum term funding payable during the Term of this Agreement.

The maximum annual funding includes a 30% contingency amount. No portion of the contingency may be billed for without prior written approval from Alberta Health Services for use of the contingency.

AHS reserves the right to extend the contract term or volumes paid out at the rates specified in Schedule "B", Section II, "Service Fees."

Commencing April 1, 2014, the Service Fees may be adjusted, no more than

annually, for inflation. The adjustment shall be based on the mid-point between the average of the applicable public health care sector wage settlement for Calgary, Alberta and the Consumer Price Index (CPI) indicator "Alberta All-Items excluding Energy, excluding Tobacco and excluding Alcohol" for the previous Fiscal year and such adjustment shall follow the guiding principles defined by the Statistics Canada methodology. Any adjustment in Service Fees shall not exceed the funding granted to AHS to cover the cost of the operations of AHS in respect of the Services for the applicable Fiscal Year. Adjustments, if any, shall be effective from April 1st in the Fiscal Year in which the adjustment is made.

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Schedule “C”
Quality Standards and Expectations

Without limiting any other requirements of the Agreement, the Operator shall meet or exceed the following standards, policies, and guidelines:

Facility	Current NHSF Accreditation by CPSA and ongoing compliance with the CPSA’s NHSF Standards and Guidelines, as amended. Current Designation by the Minister.
Equipment & Instruments	<p>As described by the Canadian Standards Association (CSA), the Canadian Anesthesiologists’ Society (CAS), and the CPSA Standards and Guidelines for NHSF and AHS, pertaining to critical, semi-critical and non-critical medical devices, in each case to the extent applicable.</p> <p>Equipment is to be in good working order for all scheduled and emergency surgeries. Facility to notify NHSF Contract Manager if Equipment downtime will affect scheduled Client care.</p>
Preventative Maintenance	Standards of applicable Professional Governing Body. Anesthesia and surgical Equipment maintenance standards as per manufacturer specifications and guidelines, subject to review and acceptance by AHS.
Supplies	<p>Standards of applicable Professional Governing Body. Medical surgical, pharmaceutical and linen supplies must be appropriate for the Client population to be served.</p> <p>The Operator shall ensure that the Services, Equipment and supplies comply in all respects with the IPC Standards, attached hereto as Schedule C, Appendix 1, as amended by the Minister from time to time. The Operator shall obtain copies of the IPC Standards listed in Schedule “C”, Appendix 1 from time to time during the Term from the Minister’s website at:</p> <p>http://www.health.alberta.ca/newsroom/pub-infection-prevention.html</p>
Facility Staff	<p>At a minimum, Staff must have the appropriate experience for the needs of the Client population served, in compliance with the CPSA, Operating Room Nurses Association and the designated professional licensing body.</p> <p>In each Facility where general anesthetics or sedation are administered, there must be one</p>

member who is currently certified in Advanced Cardiac Life Support (ACLS) present at all times. All patient care Staff must have current Basic Cardiac Life Support (BCLS).

Where a general anesthetic is administered to a child, the registered nurse in the operating room assisting the anesthesiologist must be skilled in venipuncture and airway management in children. Documented proof of these skills must be available to AHS on request.

In the event that care is provided to children under ten (10) years of age, the recovery room registered nurse must have current Paediatric Advanced Life Support (PALS) certification.

In addition to skilled nursing Staff, the Operator must provide for appropriately trained and experienced support Staff, including but not limited to manager, booking personnel, re-processing Staff and housekeeping Staff.

Health Record Document

Documentation standards are subject to audit and must meet the NHSF Accreditation standards as outlined by the CPSA.

Records relating to the provision of Services shall meet or exceed the requirements of AHS Applicable Policies and procedures; Professional Governing Bodies; and record retention as defined by the CPSA Standards for NHSFs.

An anesthetic record, operating room patient care record and post anesthetic recovery room record shall be completed by the medical and nursing professionals providing direct care for every Client prior to discharge from the Facility

In addition to the Client record, the Operator must maintain an individual Client statement (***Disclosure Respecting Sale of Enhanced Medical Goods or Services***) regarding the provision of enhanced medical goods and services within the Facility, as stipulated in the HCP Regulation.

Medical and/or Dental Staff

The Operator shall have a medical director approved by the CPSA on staff who:

- (a) has or would be entitled to an active appointment on the Medical Staff; and
- (b) recognizes the authority of AHS' clinical departments/divisions/ sections to establish medical standards of care, principles and policies and to determine level and extent of

clinical responsibilities of members of such departments/divisions/ sections.

The Operator must adhere to the ethical guidelines and norms as set out by the CPSA, the Medical Staff and other bodies having jurisdiction over matters pertaining to physicians providing the Services to ensure that they will adhere to the ethical guidelines and norms as set out by their appropriate professional bodies, if applicable.

Anesthesia

All Clients undergoing anesthesia shall be assigned and noted on the Client's chart, an American Society of Anesthesiologists (ASA) classification of physical status by an anesthetist. Preoperative evaluation and Client selection shall be according to the CPSA Standards and Guidelines for NHSFs.

Anesthetists (including paediatric anesthetists) practicing in the operator facility(ies) shall follow the policies principles, procedures standards and scheduling established by the zone/local Department of Anesthesia

Anesthetic Services will only be provided where blocks of six (6) hours if surgery are booked. The facility is responsible for ensuring that anesthesiologists are scheduled as required, in collaboration with the zone/local Department of Anesthesia. Two (2) weeks notice is expected as a minimum to arrange for anesthetist allocation.

Paediatric Care

As acceptable in accordance with the guidelines, policies and standards of AHS and all other regulatory or professional bodies having jurisdiction

Unplanned Transfer to Hospital

For Clients requiring emergency transfer from the NHSF to an acute care hospital, the Operator shall ensure that the attending physician or anesthesiologist shall directly communicate this transfer to an emergency room physician of the receiving hospital. Client care information must accompany the Client to the hospital. This shall include, but not be limited to, copies of the following: history and physical exam record; consultation records; diagnostic records (lab reports, appropriate x-rays; ECG, etc.); anesthetic record (if applicable); operating room; and recovery room nursing records (if applicable).

Emergency Medical Services (EMS) transportation costs will be paid by AHS only for Clients that require an unplanned transfer to an emergency department and/or admission to hospital.

Schedule "C"
Appendix 1

Infection Prevention and Control Standards

1.1 Standards

The IPC Standards in force on the Effective Date include, but are not limited to, the following, all as amended, published or adopted by the applicable regulating body after the Effective Date:

- (a) the Alberta Health and Wellness Infection Prevention and Control standards, which, at the Effective Date, include:
 - (i) *Standards for Infection Prevention and Control Accountability and Reporting* (January 2008);
 - (ii) *Standards for Cleaning, Disinfection and Sterilization of Reusable Medical Devices for all Health Care Facilities and Settings* (January 2008) (the "Sterilization Standards");
 - (iii) *Standards for Single-Use Medical Devices* (January 2008); and
 - (iv) *Standards for Prevention and Management of Methicillin-Resistant Staphylococcus aureus* (January 2008); and
 - (v) Infection Prevention and Control Information Sheet, Manufacturer/Distributor Reprocessing Information (June 16, 2008).
- (b) the Alberta Health and Wellness letter to Regulatory Body Registrars dated April 17, 2008, which specifies that: "Reusable medical devices may only be distributed or imported by a body that holds an Establishment License issued by Health Canada."

1.2 Operator Obligations

- (a) The Operator shall obtain copies of the IPC Standards described in Section 1.1(a) of this Schedule from time to time during the Term from the Minister's website at <http://www.health.alberta.ca/newsroom/pub-infection-prevention.html>
- (b) The Operator shall obtain information about the approval and licensing of reusable medical devices under Section 1.1(b) of this Schedule from Health Canada or by consulting Health Canada's website at: www.hc-sc.gc.ca/dhp-mps/legislation/md-im_e.html
- (c) In accordance with Sections 3.2 and 9.4 of the Sterilization Standards, the Operator shall obtain approval from AHS' Infection Prevention and Control executive appointed pursuant to the Sterilization Standards:
 - (i) prior to reprocessing medical devices outside of a centralized reprocessing area; and
 - (ii) prior to purchasing any new sterilizer.

1.3 Infection Prevention and Control (IPC) Reporting

The Operator shall provide AHS with a report on IPC related indicators from time to time upon request by AHS.

Schedule “D”
Operator Reporting Requirements

National Ambulatory Care Reporting System and Billing Information Reporting Requirements are appended here as **Appendix 1**

Annual Reporting Requirements Template is appended here as **Appendix 3**

INFORMATION	REPORTING FREQUENCY	DATA SOURCE/FORMAT	REPORTING TO:
Client / Procedure Information			
National Ambulatory Care Reporting System (NACRS) and Billing Information Requirements, as per Appendix 1	At a minimum of at least monthly within 15 days after month-end or with each invoice	Submission method and standard format as defined by AHS	Health Records (NACRS)
Reportable Incidents	In accordance with timeframes set out in Schedule “D”, Appendix 4	In accordance with process described in Schedule “D”, Appendix 4	<ul style="list-style-type: none"> • AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts and AHS Incident Review Committee • CPSA; and • AH&W attention to: Angeline G. Arseniuk-Shinnan 780.422.6489
Operators may be requested to submit a copy of each anesthetic record, operating room nursing record and recovery room record, during the Term.	At request	Facility	Requestor authorized by Lead, Surgical Contracts, Calgary Zone or Contract Manager NHSF Contracts
Complications (intra-operative and postoperative, including mortality rates and nosocomial infections, reported by procedure type)	Immediately	Facility	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Aggregate Info			
Complications (intra-operative and postoperative, including mortality rates and nosocomial infections, reported by procedure type)	Annually	Standard format provided by AHS (Schedule D, Appendix 2)	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Reportable Incidents	In accordance with timeframes set out in Schedule “D”, Appendix 4	In accordance with process described in Schedule “D”, Appendix 4	<ul style="list-style-type: none"> • AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts; and • AH&W attention to: Angeline G. Arseniuk-

			Shinnan 780.422.6489
Documented evidence of patient satisfaction program, including documented evidence of Client Concerns Resolution Process and follow-up; linked to AHS internal concerns resolution process; reports of patient satisfaction surveys	Annually	Facility	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Summary of Facility participation in AHS Research and Teaching Activities	Annually	Standard format provided by AHS (Schedule D, Appendix 2)	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Summary of Facility participation in AHS Quality Assurance and Monitoring Activities	Annually	Standard format provided by AHS (Schedule D, Appendix 2)	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Statement of Revenues from the sale of Enhanced Medical Goods or Services, or Non-Medical Goods or Services	Within thirty (30) days of: the end of each Fiscal Year and the end of the Term	Standard format provided by AHS (Schedule D, Appendix 2)	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Financial Reports	Annually	Facility	AHS Finance Director (BAS)
Unplanned hospital admissions from Facility to AHS acute care facility	Immediate reporting of individual incident; annual reporting of aggregate data	Standard format provided by AHS (Schedule D, Appendix 2)	<ul style="list-style-type: none"> AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts; and AH&W attention to: Angeline G. Arseniuk-Shinnan 780.422.6489
Post operative hospital emergency department visits and/or admissions	Immediate reporting of individual incident; annual reporting of aggregate data	Standard format provided by AHS (Schedule D, Appendix 2)	<ul style="list-style-type: none"> AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts; and AH&W attention to: Angeline G. Arseniuk-Shinnan 780.422.6489
Volume of Insured Services provided, by category	Annually	Facility	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Other			
Reports of CPSA Accreditation reviews, or changes to Accreditation status	Immediately	Facility	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF

			Contracts
Documented evidence of comprehensive general liability insurance, as per Agreement	Annually	Facility	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Change of Ownership or Control	Immediately	Facility	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Conflicts of Interest	Immediately	Written Notification	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts
Documented evidence of preventative maintenance program and equipment monitoring, including emergency equipment and laser equipment	Annually	Reports from external service technicians required; policy and performance records	AHS: Lead, Surgical Contracts, Calgary Zone, Contract Manager NHSF Contracts

Regional standard format remains as is via Excel file. Submission method must be in accordance with the security standards of AHS and the HIA.

**Schedule “D”
Appendix 1**

**National Ambulatory Care Reporting System (NACRS)
For Mandatory Reporting to Alberta Health and Wellness**

Clinic Identifying Information

• Delivery organization	
• Program number	As defined by AHS

Client Identifying Information

• Client name	Optional – Not Reported beyond AHS
• AB Personal Health Number (PHN)	9 digit number
• Unique Lifetime Identifier (ULI)	Assigned by Alberta Health & Wellness
• Clinic chart number	Unique identifier established by clinic
• Postal code	
• Birth date	YYYYMMDD
• Gender	

Service Information

• Service Visit Date	
• Mode of service	Face-to face, telephone, etc.
• Responsibility for payment	Used to exclude federal govt., WCB, etc.
• Main and secondary diagnoses	ICD10-CA codes
• Main and other interventions and attributes	CCI procedure codes and attributes
• Type of Anesthetic	Identifies the type used for interventions (general, spinal, local, etc.)
• Provider types	NACRS code assigned to provider type (MD, Dentist, RN, etc.)
• Doctor name and identifier	Physician specific information
• Admit via Ambulance	Used if a Client is brought to the service delivery site by ambulance
• Institution from and institution to	Used when a Client is transferred from or to another acute care facility
• Visit disposition	Discharged, admitted, left without being seen, etc.

Regional standard format and submission method to be used.

NOTE: *Reporting requirements will be adjusted in accordance with changes required of AHS by Alberta Health and Wellness.*

**Schedule “D”
Appendix 2**

**Additional Elements Required for
Data Management (EDW)**

Client Identifying Information

<ul style="list-style-type: none"> • Province 	Client’s Home Province AB, BC, SK, MB, NL, PE, NS, NB, QC, ON, NT, YT, NU, US, OC (Other Country), NR (Unsp. Non-resident)
--	---

Service Information

<ul style="list-style-type: none"> • Facility Code 	AHS provided code that indicates service being provided.
<ul style="list-style-type: none"> • Facility Fee 	Dollar value of service being provided
<ul style="list-style-type: none"> • Alberta Health Physician Fee Billing Code 	Alberta Health Physician Service Fee code that further defines facility code

Regional standard format and submission method remains as is via excel file and email.

NOTE: Submission method may be adjusted in accordance with security standards of AHS.

**Schedule "D"
Appendix 3**

Annual Reporting Template

The following document is the template that must be used for the submission of your Facility's Annual Report. The information requested in the template below pertains only to the insured Services provided in your Facility under contract with AHS from April 1st 2012 to March 31st 2017.

Name of Facility: _____

Facility Address: _____

Surgical Specialty	Number of procedures performed [year], by category

Enhanced Medical Goods & Services

Please provide a list and statement of revenues for all enhanced medical goods and services provided by your Facility.

Annual Reporting Template (Continued)

List ALL Staff (related to delivery of insured Services with AHS). Please insert date of issue and re-certification for BCLS/ACLS/PALS. Provide photocopies of updated BCLS/ACLS/PALS certifications and proof of professional registration.

*PALS only required if children under ten (10) years of age require recovery room care (as required in Schedule D).

Last Name	First Name	Professional Designation /Title	BCLS Issued	BCLS Update	ACLS Issued	ACLS Update	*PALS Issued	*PALS Update

"Schedule D" of the Agreement states that Medical Staff working in the surgical Facility must have Medical Staff privileges with AHS. Please provide a list of all physicians working in your Facility. Please list your Medical Staff Director first.

Medical Staff Director Last Name:	Medical Staff Director First Name:
Physician Last Names:	Physician First Names:

Article 10 of the Agreement describes the requirement for teaching and research activities at your Facility.

Summarize your Facility's teaching and/or research activity.

Annual Reporting Template (Continued)

Schedule “D” of the Agreement requests a summary of your Facility's quality assurance and monitoring activities.

Summarize your Facility's quality assurance activity.

Incident Reporting

Has your Facility experienced any reportable critical or unusual incidents involving Clients treated under AHS Agreement?

Yes No

If yes, please provide a summary of incidents (including Client PHN and a description of the incident) as per requirements in Schedule D Reporting Requirements

Annual Reporting Template (Continued)**Unplanned Hospital Admissions and/or Emergency Room visits**

To the best of your knowledge, have any Clients treated in your Facility under the AHS Agreement experienced any unplanned hospital admissions or emergency room visits?

Yes No

If yes, please provide a summary (including Client PHN and reason for admission) as per requirements in Schedule D Reporting Requirements

Client Satisfaction

Summarize your Facility's patient satisfaction reports and submit a copy of your patient satisfaction questionnaire.

Annual Reporting Template (Continued)

Complication rates (including nosocomial infections and major surgical complications):

Please provide the following:

Intra-operatively		Postoperatively	
Procedure	Type	Procedure	Type

Change of Ownership or Control

--

Confirm that there has not been any change of ownership or control of your Facility since this Agreement with AHS was originally signed?

Confirmed <input type="checkbox"/>

Financial Information

In accordance with clause 11.6 (a) Please provide your Audited financial statements prepared in accordance to Canadian GAAP to

In Edmonton: Business Advisory Services Attention Mr. Terry Eszczuk Royal Alexandra Hospital CSC 5th Floor Room 529 10240 Kingsway Northwest Edmonton, AB T5H 3V9	In Calgary: Business Advisory Services Attention Ms. Marina Sizov Southport Tower 10301 Southport Lane SW Calgary, AB T2W 1S7
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Proof of insurance

Please provide AHS with your current certificate of insurance (refer to section 14.3 for specific coverage requirements)
--

Insurance Declaration

The signature below will confirm that the Facility is in compliance with the contractual insurance requirements as described in section 14.3 Date: _____ Signature: _____

Printed name of above signature and title: _____

Preventative Maintenance of Equipment Declaration

The signature below will confirm that the Equipment involved in the delivery of Services under the Agreement with AHS has been maintained, as per manufacturer specifications and guidelines, and that your Facility would be willing to have AHS audit your records in this area.

Date: _____

Signature: _____

Printed name of above signature and title: _____

CPSM-CC

Schedule "D"
Appendix 4

Incident Management Process

Process

Operators are required to report all situations where Clients have suffered harm or experienced close calls and any hazards that could lead to Client harm in accordance with the following grid:

Event	When to Report	Contact Person/Info
Hospital Transfers	To be reported immediately, irrespective of level of Harm	<p>On weekdays during regular business hours:</p> <p>Calgary: NHSF Contract Manager 403-943-1714 and /or Lead. Surgical Contracts 403.944.2927 on week days</p> <p>After hours:</p> <p>AHS Admin on Call after hours: 282-8223 pager# 8888</p>
Severe Harm (critical incident)	To be reported immediately in reasonable detail, with follow up report in complete detail to be submitted within 24 hours of event	<p>On weekdays during regular business hours:</p> <p>Calgary: NHSF Contract Manager 403-943-1714 and /or Lead. Surgical Contracts 403.944.2927 on week days</p> <p>After hours:</p> <p>AHS Admin on Call after hours: 282-8223 pager# 8888</p>
Moderate and Minimal Harm	To be reported in complete detail within 72 hours of event	<p>Calgary: NHSF Contract Manager 403-943-1714 and /or Lead. Surgical Contracts 403.944.2927 on week days</p>
No Apparent Harm, Hazards and Close Calls	To be reported in complete detail within 30 days of event	<p>Calgary: NHSF Contract Manager 403-943-1714 and /or Lead. Surgical Contracts 403.944.2927 on week days</p>

Definitions

“Close Call” means a situation where a Client was nearly harmed, but for one or more reasons, the Client was ‘saved’ from harm.

“Harm” means an unexpected or normally avoidable outcome relating to the Operators’ Services that negatively affects a Client’s health and/or quality of life and occurs while the Client is at the Facility or within ten (10) days of the Client’s visit, including but not limited to:

- Severe Harm (critical incident) - Client attempts suicide, suffers death, complete loss of limb or organ function or requires intervention to sustain life.
- Moderate Harm - Client suffers partial loss or limb or organ function.
- Minimal Harm - Client suffers any form of harm that is less extensive and does not involve death, loss of limb or organ function, and may include clusters of infections among Clients treated in the Facility.
- No Apparent Harm – at the time of the event or reporting of the event, the Client does not appear to suffer any harm, but could do so in the future.

“Hazard” means something that has the potential to contribute to harm or something that could harm an individual and includes any circumstance not described herein and considered a “reportable incident” at any time by the CPSA, any other Professional Governing Body having jurisdiction or under any Applicable Laws.

**SCHEDULE “D”
APPENDIX 5
PATIENT CONCERNS RESOLUTION PROCESS**

Principles:

1.01 All Albertans are entitled to express concerns regarding their health care experience. The process for responding to these concerns must be consistent with, and adherent to, the *Patient Concerns Resolution Process Regulation*, the *Ombudsman’s Act* and all other applicable legislation including but not limited to: *Regional Health Authorities Act*, *Health Information Act*, *Health Professions Act*, *Freedom of Information and Privacy Act*, *Health Facilities Review Committee Act*, and the *Protection of Persons in Care Act*.

1.02 The expressed concerns of patients, their family members and the public, is an essential source of information regarding consumer experience and provides opportunities to identify where improvements in delivery of health care services and the health care environment can be made. The patient concerns resolution process also presents health care providers with the opportunity to educate the public regarding the health care system.

1.03 The patient concerns resolution process balances the interests of the complainant, the need to be responsive, the greater public good, and the health care system’s stewardship responsibilities, and should ultimately lead to overall system improvement and support the commitment to providing safe, quality care (adapted from the HQCA Provincial Framework).

1.04 The resolution of concerns/complaints will occur as close to the point of service as possible and involve the appropriate people within its organization, regardless of where the feedback is received.

2. Operator Obligations:

2.01 The Operator shall:

- (a) develop and implement a patient concerns resolution process in alignment with the Patient Concerns Resolution Process Regulation and develop supporting policies and procedures;
- (b) establish a formal mechanism for addressing recommendations from the AHS Patient Concerns Officer (PCO);
- (c) establish a formal mechanism for addressing recommendations from the Alberta Ombudsman;
- (c) develop and communicate public messaging regarding the patient concerns resolution process and,
- (e) ensure that its subcontractors comply with the patient concerns resolution process.

3. Performance Measurement and Reporting:

3.01 The Operator shall provide reports of patient concerns and commendations data as required by AHS, in a format consistent with established performance metrics across

AHS.

4. Patient Concerns Resolution Process:

4.01 The following is a summary of the AHS Patient Concerns Resolution Process for contracted service providers, including the Operator:

- a) Acknowledge the complaint within 3 business days.
- b) Inform the complainant of the actions to be taken to address their noted complaint, and state the frequency of contacts/updates.
- c) Appropriate individuals consider and evaluate ALL relevant information.
- d) Ensure that there is a rationale connection between the facts presented and the conclusions reached.
- e) Allow the complainant the opportunity to rebut/challenge the facts/rationale used in making the decision.
- f) Document the actions (i.e. phone calls, meetings, etc.) taken towards resolution.
- g) Ensure that the resolution timeline is suitable to the nature of the complaint.
- h) Upon completion of the patient concerns resolution process, and if a complainant is dissatisfied with the process, the Operator will provide information to the complainant on how to contact the PCO.
- i) The Operator may consult with the AHS Patient Concerns Division prior to providing the complainant with the contact information for the PCO.

4.02 If a patient concern involves both the Operator and AHS, the parties will collaborate in resolving the inter-organizational concern to ensure a seamless process for the complainant. The parties will make a decision about the portion of the concern pertaining to their service only.

Schedule "E"
Enhanced Medical Goods

i. Multifocal or Accomodative Intraocular Lens

ii. Toric Intraocular Lenses

CPSM-COPY

**Schedule “F”
AHS Policies and Bylaws**

Alberta Health Services is established and governed by a range of documents including legislation, bylaws, guidelines, directives and policies. Clinical policies of the applicable former regional health authority remain in effect until replaced by equivalent AHS Policies. The AHS Policies applying specifically to the contracted Operator are listed and briefly explained below. The Operator must, at a minimum, be familiar with the governance documents listed and must comply, or develop policies that are consistent with, the requirements contained therein.

AHS shall provide the Operator with the AHS Policies, and amendments to AHS Policies, electronically. The AHS Policies provided by AHS constitute part of this Agreement.

1. Alberta Health Services Bylaws

- Conflict of Interest Bylaw

Promotes a standard of conduct to preserve and enhance public confidence in the integrity, objectivity, and impartiality of AHS’ decision-making processes, and assist persons acting on behalf of AHS to avoid, mitigate or manage Conflict of Interest situations.

- Code of Conduct

The AHS Code of Conduct outlines the values, principles, and standards to guide the behaviour of persons acting on behalf of AHS.

2. Alberta Health Services Policies:

Policy #	Version	Title	Description
Corporate Accountability and Financial Stewardship			
CF-01	2010-08-26	Communications (Internal and External)	Outlines the process for internal and external communications on behalf of AHS
CF-04	2010-07-13	Travel	Sets out framework for reimbursement of travel expenses
Employee & Associate Relationships			
EAR-02	2009-06-24	Recruitment and Employment Practices	Outlines AHS recruitment and employment standards
Ethical Conduct			
EC-01		Safe Disclosure	This policy provides clear guidance for the safe disclosure of any improper activity within AHS. Individuals

			reporting improper activities within AHS in good faith are protected from retaliation by the provisions of the policy.
Facilities Management			
FM-02	2010-10-20	Emergency Response Codes	Outlines standardized emergency response code
Information and Technology Management			
IM-01	2009-06-24	Access to Information (Physical, Electronic, Remote)	Sets out requirements and responsibilities for physical, administrative and technical access controls at all AHS facilities containing information and storage, IT resources, information, and information systems. The purpose of the controls is to protect the security of AHS IT resources, facilities, and to safeguard health and personal information.
IM-02	2009-06-24	Contractor Requirements for Security of Information and IT Resources*	Outlines to contractors and individuals negotiating, or managing contracts on behalf of AHS the security requirements for using or accessing AHS Information or IT resources.
IM-03	2009-06-24	Transmission of Information by Facsimile or Electronic Mail	Outlines the conditions by which information in the custody or control of AHS may be transmitted by facsimile or electronic mail.
IM-04	2009-06-24	Delegation of Authority and Responsibilities for Compliance with FOIPP and the HIA	Sets out the delegation of authority and responsibilities to ensure the collection, use, access and disclosure of personal information and health information in the custody or control of AHS complies with applicable legislation.
IM-05	2009-06-24	Protection and Privacy of Health and Personal Information	Outlines the requirements for the collection, access, use or disclosure of personal and health information in the control

			or custody of AHS in compliance with applicable legislation.
IM-06	2009-06-24	Information Technology Acceptable Use	Sets out acceptable use of AHS IT resources. All users are required to comply with applicable AHS policies and procedures regarding information and IT resource security, access and use, and privacy, and confidentiality.
Supportive Work Environment			
SWE-02	2009-06-24	Workplace Abuse and Harassment	The policy outlines the process for reporting and investigating workplace abuse and harassment allegations.
SWE-03	2010-04-24	Workplace Health & Safety	This policy outlines the requirements for compliance with the Alberta Occupational Health and Safety Act.

3. Alberta Health Services Directives:

Directives	
Duties And Reporting Under the Protection For Persons In Care Act	The Directive sets out the duties and reporting requirements in the new Protection for Persons in Care Act (Alberta) to ensure persons acting on behalf of AHS comply with the Act.
Obtaining Consent for Health Care From Adults Under the Adult Guardianship and Trusteeship Act	The Directive responds to changes to the Adult Guardianship and Trusteeship Act (Alberta) by clarifying who can provide consent when an adult needs assistance or requires a substitute decision-maker.