

THIS AMENDING AND EXTENSION AGREEMENT is dated effective the 1st day of April, 2018 (the “**Agreement**”).

BETWEEN:

ALBERTA HEALTH SERVICES

(“**AHS**”)

- and -

KEVIN E. LUNG PROFESSIONAL CORPORATION

(the “**Operator**”)

(collectively, the “**Parties**” and each of them, a “**Party**”)

RECITALS:

- A. The Parties have entered into an agreement for the provision of facility services relating to the delivery of insured Oral and Maxillofacial surgical services referenced as CLM200345, dated May 1, 2014 with Ministerial Order #19/2014 as amended by agreement dated August 1, 2014 with Ministerial Order #28/2014 (the “**Initial Agreement**”).
- B. The Parties wish to amend the Initial Agreement on the terms and subject to the conditions set forth in this Agreement.
- C. The Initial Agreement is said to expire on March 31, 2018.
- D. In accordance with and as contemplated in Section 6.3 of the Initial Agreement, the Parties wish to further extend the term of the Initial Agreement for a period of forty-eight (48) months.

NOW THEREFORE for good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree on the terms and subject to the conditions set forth in this Agreement as follows:

**ARTICLE 1
MINISTERIAL APPROVAL**

- 1.1** It is an express condition precedent to this Agreement having any force or effect that the Minister of Health for Alberta shall have approved this Agreement. If this condition is 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 of Health for Alberta’s said approval is granted and neither Party shall have rights or obligations relative to this Agreement until that time.

**ARTICLE 2
EXTENSION OF TERM**

2.1 In accordance with Section 6.3 of the Initial Agreement, the term of the Initial Agreement is extended for a period of forty-eight (48) months commencing April 1, 2018 and ending March 31, 2022 (the “**Extension Term**”).

**ARTICLE 3
AMENDMENTS**

3.1 Amendments to Initial Agreement

(a) Schedule “B” of the Initial Agreement is deleted and replaced with Schedule “A” which is attached to this Agreement

**ARTICLE 4
GENERAL**

4.1 Capitalized Terms

Unless otherwise defined, the capitalized terms used in this Agreement have the respective meanings ascribed to them in the Initial Agreement.

4.2 Effect of Agreement

Other than as expressly provided for herein, this Agreement does not serve to amend any terms or conditions of the Initial Agreement, the terms and conditions of which shall remain in full force and effect otherwise unamended. This Agreement is entered into as a supplementary document to the Initial Agreement and is subject to the other terms and conditions of the Initial Agreement and, in particular, all provisions and terms of general interpretation, construction and application (including but not limited to those relating to governing law, amendments, enurement, calculation of time periods and dispute resolution) are hereby incorporated by reference and deemed to be made a part hereof.

4.3 Entire Agreement

This Agreement and the Initial Agreement and any other agreements and documents that have been, or are required or contemplated to be, delivered pursuant hereto or thereto constitute the entire agreement between the Parties, setting out all the covenants, warranties, representations, conditions, understandings and agreements between the Parties pertaining to the subject matter of the Initial Agreement, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written.

4.4 Further Assurances

Each Party shall, with reasonable diligence, do all such things, provide all such reasonable assurances and execute and deliver such further documents or instruments as may be required by the other Party in order to give effect to and carry out the provisions of this Agreement or which otherwise may be reasonably necessary or desirable to effect the purpose of this Agreement.

4.5 Execution in Counterparts

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by facsimile or other means of electronic transmission and all such counterparts shall together constitute one and the same agreement.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates set forth below.

ALBERTA HEALTH SERVICES

By: Original signed _____
Name:
Title:
Date:

By: Original signed _____
Name:
Title:
Date:

KEVIN E. LUNG PROFESSIONAL CORPORATION

By: Original signed _____
Name:
Title:
Date:

SCHEDULE "A"

I. Description of Services

Alberta Health Services (AHS) requires the services of Kevin E. Lung Professional Corporation for facility services related to the provision of insured oral and maxillofacial surgical procedures under the Alberta Health Care Insurance Plan. Oral and maxillofacial surgical procedures performed in Non-Hospital Surgical Facilities are limited to the type approved by the College of Physicians and Surgeons of Alberta.

II. Service Fees

a) Unit:

For purposes of this schedule, one unit represents 15 minutes of anaesthetic time.

b) Facility Fee:

Details are provided in the original signed agreement

c) Anaesthetic Fee:

Details are provided in the original signed agreement

d) Adjustments

Commencing April 1, 2019 of the Term, both Facility Fees and Anaesthetic Fees (the "Service Fees") may be adjusted, no more than annually, for inflation. Any such adjustment will be based on the lesser of:

- (i) the Consumer Price Index (CPI) indicator "Alberta All-Items excluding Food" for the previous Contract Year (as defined below), following the guiding principles defined by the Statistics Canada methodology, provided that if such CPI is negative, it shall be treated as zero (0%) percent; and
- (ii) the inflationary budget increase provided to AHS by Alberta Health to cover the cost of the operations of AHS in respect of the Services for the applicable Contract Year.

Adjustments, if any, shall be effective from April 1st in the Contract Year in which the adjustment is made.

III. Supplies

AHS, will, in addition to Facility Fees and Anaesthetic Fees set out above, reimburse the Operator for reasonable and medically necessary supplies for bone grafting (including Dynagraft, Bio-Oss, plates and screws) and osteodistraction appliances will be funded additional to the Facility and Anesthetic Fees at a price equivalent to the amount typically paid directly by AHS for such supplies.

IV. Maximum Facility Fee, Anaesthetic Fee and Supplies Reimbursement Payable

The estimated total contract value, including Service Fees and Supplies payable by AHS to the

Operator (the “**Estimated Total Contract Value**”) in each of the contract years April 1, 2018 to March 31, 2019, April 1, 2019 to March 31, 2020, April 1, 2020 to March 31, 2021 April 1, 2021 to March 31, 2022 (each a “**Contract Year**”) will be calculated as follows:

- (a) For the Contract Year April 1, 2018 to March 31, 2019, the Estimated Total Contract Value shall be \$1,386,130.00, plus a 30% contingency amount of \$415,839.00, for a Maximum Contract Value (defined below) of \$1,801,969.00. No portion of the 30% contingency may be billed for without prior written approval from AHS for use of the contingency. Contingency funding is for extenuating purposes only.
- (b) For all remaining Contract Years of the Term, Estimated Total Contract Value per Contract Year may be calculated using the previous Contract Year Estimated Total Contract Value multiplied by the lesser of Section IV(b)(i) and (ii) below.
 - (i) the CPI indicator “Alberta All-Items excluding food” for the previous Contract Year, following the guiding principles defined by the Statistics Canada methodology, provided that if such CPI is negative, it shall be treated as zero (0%) percent; and
 - (ii) the inflationary budget increase provided to AHS by Alberta Health to cover the cost of the operations of AHS in respect of the Services for the applicable Contract Year.
- (c) AHS reserves the right to add a 30% contingency to the Estimated Total Contract Values for any Contract Year of the Term (the Estimated Total Contract Value plus the 30% contingency is hereinafter referred to as the “**Maximum Contract Value**”). No portion of the 30% contingency may be billed for without prior written approval from AHS for use of the contingency. Contingency funding is for extenuating purposes only.
- (d) In no case shall the Maximum Contract Value in any of the Contract Years exceed \$2,000,000.00.

CPI shall be calculated as per Appendix 1 to Schedule “B” CPI calculation

THE ESTIMATED TOTAL CONTRACT VALUE INDICATED ABOVE SHOULD IN NO WAY BE TAKEN TO BE A REPRESENTATION, WARRANTY OR GUARANTEE BY AHS THAT THE OPERATOR WILL HAVE SUFFICIENT INSURED PROCEDURES TO ACHIEVE THE STATED MAXIMUM ANNUAL FUNDING PAYABLE DURING THE TERM OF THIS AGREEMENT. IN ACCORDANCE WITH SECTION 3.5 OF THIS AGREEMENT, AHS DOES NOT GUARANTEE THAT ANY MINIMUM NUMBER OF PROCEDURES WILL BE PERFORMED IN THE FACILITY, OR THAT ANY MINIMUM AMOUNT OF SERVICE FEES WILL BE PAYABLE TO THE OPERATOR DURING THE TERM OF THIS AGREEMENT.