

ATTACHMENT 1

DRAFT September 30, 2009

THIS AGREEMENT dated the [DATE] day of [MONTH, YEAR]

BETWEEN

**THE GOVERNING COUNCIL OF
THE UNIVERSITY OF TORONTO**
(the “**University**”)

AND

CITY OF TORONTO
(the “**City**”)

WHEREAS Toronto Public Health is a division within the City that is dedicated to the provision of exemplary public health programs and services, the education of personnel in various health professions and the conduct of public health research;

AND WHEREAS the University is a centre for research and education in the health and related sciences;

AND WHEREAS Toronto Public Health and the University wish to cooperate in the pursuit of their common interests, including education of health professionals in public health and related sciences and conducting research and research training in this field;

NOW THEREFORE IN CONSIDERATION OF the promises and mutual covenants contained within, the parties hereto agree as follows:

I APPLICATION OF THIS AGREEMENT

This agreement applies only to Toronto Public Health’s operation located at 277 Victoria Street and Toronto Public Health’s own satellite sites.

II DEFINITIONS AND INTERPRETATION

II.1 Definitions

In this Agreement,

- i. *Toronto Public Health Staff Member* means an individual who is employed by the City in the Toronto Public Health division.
- ii. *Toronto Public Health Staff Member with a University Appointment* means a Toronto Public Health Staff Member who has an appointment in a Faculty, Academic Unit or Department at the University.
- iii. *University faculty Member* means an individual who holds an appointment at the University and is not employed by the City in the Toronto Public Health division.

- iv. *Staff Member* means an individual who is either a Toronto Public Health Staff Member or a University faculty Member.
- v. *Client* refers to any person who is provided with the services of Toronto Public Health.
- vi. *Clinical faculty (physician)* means an individual or individuals licensed to practice medicine in Ontario, who is appointed in accordance with the University Policy for Clinical Faculty as *Clinical faculty* in a University Faculty of Medicine Clinical Department. Clinical faculty may be full-time, part-time or adjunct, and the criteria for each of these are set out in the Procedures Manual for Policy for Clinical Faculty (attached as Schedule 1).
- vii. *Director* means the Director of the Dalla Lana School of Public Health.
- viii. *Placement* means placement of a Student at Toronto Public Health for the purpose of gaining practical public health experience.
- ix. *Student* means a person formally registered in a Faculty or Department or recognized academic unit of the University in a course or program of study. A Student may be registered in a certificate, a diploma, an undergraduate, a health professional graduate, a doctoral (MSc/PhD) graduate or a postgraduate medical education program. Persons present in Toronto Public Health in training situations who are not registered as Students of the University are not Students within the meaning of this section.
- x. *Teaching Programs* means programs within various University Faculties or Departments (including, but not limited to: Medicine, Dentistry, the Lawrence S. Bloomberg Faculty of Nursing, Nutritional Science, the Leslie Dan Faculty of Pharmacy, Psychology, Radiation Therapy, Medical Imaging Technology, Nuclear Medicine Technology, the Factor-Inwentash Faculty of Social Work, Health Administration, Physical Therapy, Physical Education and Health, the Dalla Lana School of Public Health, Occupational Therapy and Speech Language Pathology) that place Students at Toronto Public Health.

II.2 Interpretation

- i. Subject to the terms of this Agreement, the University and Toronto Public Health have the right and the authority to make decisions and to exercise their discretionary authority regarding their respective resource allocations, programmatic changes and/or use of or access to their respective premises or facilities.
- ii. No person who is not a party to this Agreement has any right to enforce any term of this Agreement.
- iii. Except as may be provided herein, this Agreement shall not be interpreted or applied so as to fetter the respective authority, duties or responsibilities of the University or the City under their respective constituting statutes, letters patent, governing legislation, by-laws or policies.
- iv. Nothing in this Agreement shall be interpreted or applied so as to interfere with statutory obligations.
- v. Nothing in this Agreement creates an employment relationship between any Student and either the City or the University.
- vi. Nothing in this Agreement creates an employment relationship between any Staff Member and the University.

- vii. Where any person or position is referred to in this Agreement, except where the Agreement specifies that the responsibility may be delegated, such person may delegate his/her responsibilities only if such delegation has been approved by Toronto Public Health and the University.
- viii. References to specific legislation in this Agreement include any amendments made from time to time to such legislation and include any regulations, as amended from time to time, made under such specific legislation.
- ix. In the event a provision of any Schedule to this Agreement is inconsistent or conflicts with a provision of the Agreement, the terms of this Agreement shall take precedence and govern to the extent of any such inconsistency or conflict.

III RELATIONS BETWEEN THE PARTIES

The official of the University who shall have responsibility for relations with Toronto Public Health shall be the Vice-Provost, Relations with Health Care Institutions (the "Vice-Provost").

The official of Toronto Public Health who shall have responsibility for relations with the University shall be the Medical Officer of Health for the City of Toronto Health Unit (the "Medical Officer of Health").

The Medical Officer of Health and Vice-Provost shall meet at least once a year to review the relationship between the two parties. They may create an advisory body or bodies to study particular problems or opportunities and make recommendations.

Each party acknowledges that the other has the right to engage in other activities and relationships with regard to public health and related sciences research and education without having to inform, or seek the permission of, the other party.

IV RELATIONS WITH STAFF MEMBERS

The City is responsible for the terms and conditions of employment of its Staff Members in accordance with its own policies and procedures.

The University is responsible for the terms and conditions of appointment of its faculty Members in accordance with its own policies and procedures.

A Toronto Public Health Staff Member may also hold an appointment with the University. Any such appointments must be made in accordance with the policies and procedures of the University and approved in writing by the appropriate official of Toronto Public Health. The University's current relevant template appointment letters are attached for information as Schedule 1.

The University and Toronto Public Health agree that the appointment of a Toronto Public Health Staff Member to the University shall not create an employment relationship between the University and the appointed Staff Member.

From time to time, Toronto Public Health may wish to engage a University faculty Member as a consultant. Any such arrangement would be separately negotiated and would have to be agreed upon in writing by the University, the City and the relevant University faculty Member(s) in accordance with University policies and procedures.

V TEACHING

V.1 Introduction

Toronto Public Health acknowledges that the University is primarily responsible for the Teaching Programs in which Students are enrolled, whether those programs are located on or off the University's property. Accordingly, Toronto Public Health recognizes the University's ultimate authority with regard to decisions made with respect to its Teaching Programs. Nevertheless, the University acknowledges the valuable role and specific functions carried out by Toronto Public Health Staff Members with a University Appointment who are engaged in the academic teaching mission by involving them in the planning, administration, presentation and review of its Teaching Programs as appropriate.

The parties will support the efforts and requirements of each other to achieve and maintain excellence in teaching, particularly through such processes as departmental and institutional reviews, accreditation surveys, staff evaluations, program assessments, Student evaluations and constructive criticism and evaluation.

The University and Toronto Public Health agree to follow the University of Toronto's Standards of Professional Practice Behaviour for all Health Professional Students (attached as Schedule 2) and the Faculty of Medicine/Affiliated Institutions Guidelines for Ethics and Professionalism in Healthcare Professional Clinical Training and Teaching (attached as Schedule 3).

The University (including faculty Members and Students) and Toronto Public Health share responsibility for creating a learning environment that promotes the development of explicit and appropriate professional attributes (attitudes, behaviours, and identity) in Students. The learning environment includes formal learning activities as well as attitudes, values, and informal "lessons" conveyed by individuals with whom the Student comes in contact.

The University and Toronto Public Health agree that, subject to the mutual agreement of the parties on annual teaching placements, certain Toronto Public Health programs will engage in teaching, and that some or all of the Toronto Public Health Staff Members in those programs will have University appointments and will teach Students.

All Toronto Public Health Staff Members who teach Students and are responsible for a course or a substantial part of a course and/or grade Students must qualify for and hold an appointment at the University in the department or Faculty or other recognized academic unit appropriate to their teaching responsibilities, at such ranks and of such categories as the University may determine.

V.2 Teaching Commitment

The University and Toronto Public Health agree to work together in a reciprocal planning process to determine the appropriate number of Student teaching placements by program and in the context of curriculum requirements.

Teaching Programs will prepare annually a curricula outline and proposed Student teaching placements at Toronto Public Health.

The placement of Students will be based on pedagogic interests, including the need for a wide range of learning experiences, and on requirements of applicable regulatory bodies, and subject to Toronto Public Health's ability to offer such instruction and/or experience.

The University will deliver the proposed Student teaching placements to Toronto Public Health at least 10 months in advance of the agreed upon start date of the academic program. Toronto Public Health will consider whether it can accommodate the proposed Student teaching

placements, and Toronto Public Health and the University will negotiate in good faith to reach agreement on the proposed Student teaching placements at least 8 months in advance of the agreed upon start date of the academic program. Any subsequent changes to the Student teaching placements will be agreed upon by the program leader of the cognate University Faculty, Department or program and the Medical Officer of Health or his /her delegate at least 4 months in advance of the start of the agreed upon start date of the academic program. If agreement cannot be reached at any stage, the appropriate Dean or Director, or, if relevant, Department Chair (in Faculties where there are multiple departments), and the Medical Officer of Health or his/her delegate will endeavour to negotiate an agreement.

The University curricula, the number of Students needing placements and Toronto Public Health's ability to take Students may change from year to year for various reasons, and these factors will be relevant to the negotiation of the annual Student teaching placements.

The parties will cooperate to implement the annual Student teaching placements (attached as Schedule 4).

The parties recognize that, in the event of a situation described in the 4th paragraph of section XV below (such as a communicable disease outbreak), the parties might have to suspend performing their obligations to teach or place Students (in accordance with the provisions of that paragraph).

Toronto Public Health undertakes that any teaching of students from other educational institutions will not compromise its ongoing annual teaching commitment to the University as set out in Schedule 4. The University undertakes that, subject to requirements of the Guidelines for the Assignment of Postgraduate Medical Trainees, any assignment of Students to other teaching sites (or other settings) will not compromise its ongoing commitment to assign Students to Toronto Public Health as set out in Schedule 4.

Attached as Schedule 4 is a template Student teaching placements form. The parties will develop a detailed Student teaching placements form in the first year of the Agreement to replace the template on agreement of the parties. The parties will amend the form by agreement on an annual basis.

V.3 Students

V.3.i Placement of Students

For periods of time agreed to by the University and Toronto Public Health, Students will be permitted to take instruction and gain public health and/or practical experience at Toronto Public Health, provided that appropriate services are offered at Toronto Public Health, subject to Toronto Public Health's ability to offer such instruction and/or experience and the commitments in Schedule 4. Toronto Public Health will provide services and facilities upon the terms and conditions hereinafter set out.

Using the process set out in Part V, section 2 above, the number of undergraduate, postgraduate and graduate Students from each University professional program taking instruction in Toronto Public Health shall be negotiated and agreed to annually by the representatives of the heads of the appropriate University Faculties or Departments with the appropriate representatives of Toronto Public Health.

The Faculty of Medicine will assign postgraduate Students to Toronto Public Health sites and other sites in accordance with the Guidelines for the Assignment of Postgraduate Medical Trainees (attached as Schedule 5).

Students enrolled in Departments and Faculties including, but not limited to, the Departments of Occupational Therapy, Physical Therapy, Speech/Language Pathology and Radiation Oncology, and the Faculties of Medicine, Nursing, Pharmacy, Dentistry and Social Work or the Dalla Lana School of Public Health, are assigned to Toronto Public Health in accordance with the curriculum plan for each course or program and with Toronto Public Health's ability to provide an appropriate placement.

The University will be responsible for informing Students who are placed at Toronto Public Health that they are required to comply with relevant Toronto Public Health policies.

V.3.ii Transfer of Students

Toronto Public Health may at its discretion assign Students of the University placed with Toronto Public Health for training and experience among Toronto Public Health's own sites. If however it wishes to transfer a Student to another site or facility, it may do so only in collaboration with and with approval of the appropriate Department Chair and Dean or Director or their delegates.

V.3.iii Termination of Student Placement for Unacceptable Behaviour

The University recognizes the right of Toronto Public Health, after consultation with the appropriate University Dean or Department Chair or Director, to terminate the placement at Toronto Public Health of an individual Student, if the Student's behaviour or activities are considered by Toronto Public Health to be unacceptable. If the behaviour, conduct or activities of a Student is considered to be unacceptable, that Student will be treated by the University in accordance with the University's policies and by Toronto Public Health in accordance with any applicable Toronto Public Health policies.

Notwithstanding the above, if in its sole discretion Toronto Public Health determines that a Student's behaviour or activities is placing client or Toronto Public Health staff safety at risk, or unreasonably interferes with the operation of Toronto Public Health programs or services, Toronto Public Health may remove the Student from Toronto Public Health client or staff contact immediately and, after contacting the appropriate Dean or Department Chair or Director so that the University can take interim measures under its Code of Student Conduct, may terminate the Student's placement.

V.4 Toronto Public Health Teaching Program and Review

V.4.i Teaching Program Planning

While recognizing its own authority and responsibility for the content and quality of the programs in which it places its Students, the University notes the essential role of Toronto Public Health Staff Members with a University Appointment in the presentation of public health and practical experiences and programs of instruction to Students. Thus, where there is core curriculum teaching in a program at Toronto Public Health, the Deans or Director of the University's Faculties and Schools, or their delegates, will invite Toronto Public Health to participate in the planning of the programs and experiences to be offered to Students in related Departments at the University.

The University will assist Toronto Public Health as required in setting up Teaching Programs.

Toronto Public Health will notify the appropriate Dean or her/his delegate(s) of any proposed change in its strategic plans and accountability agreements that would materially affect the teaching obligations of Toronto Public Health as set out in this Agreement and, where feasible, will invite the University to comment prior to making any such changes.

The University will notify Toronto Public Health of any proposed change in its strategic plans and accountability agreements that would materially affect the placement of Students with Toronto Public Health as set out in this Agreement and, where feasible, will invite Toronto Public Health to comment prior to making any such changes.

V.4.ii Quality Control

In order to assess the quality of and maintain the highest standards in its Teaching Programs, the University employs a variety of evaluative tools. Foremost among these is the review process, using either internal or external reviewers as deemed appropriate.

Toronto Public Health acknowledges the importance of reviews and other measures to the mission of the University, recognizes that they also bear upon the success of Toronto Public Health in achieving its own objectives and accordingly agrees, subject to available resources, to support and assist the University and the Faculties corresponding to Toronto Public Health programs where Students are taught in their efforts to maintain the quality of its Teaching Programs.

V.4.iii Responsibility to Inform of Circumstances Affecting Teaching Programs

The parties acknowledge that decisions of accreditation authorities, requirements of the Professional Association of Interns & Residents of Ontario and other circumstances may affect Teaching Programs, and they agree to inform each other of any such decisions or circumstances.

V.4.iv Availability of Clients for Teaching

Toronto Public Health will allow Students, for teaching purposes, access to such of its clients and their personal health information as are necessary to meet its teaching commitments set out in the Student teaching placements (attached as Schedule 4, as amended from time to time by agreement), subject to such restrictions as are imposed by Toronto Public Health staff for clinical reasons and by Toronto Public Health clients, including any exercise of their right to refuse Student access.

Toronto Public Health will use its best efforts to provide the necessary mix of clients to meet the educational needs of Students placed at Toronto Public Health. In exceptional circumstances if Toronto Public Health ascertains that it will not be able to meet Students' needs in any program or area as previously agreed upon, it will promptly advise the appropriate Department Chair or Director or Dean.

The University will comply with all applicable privacy laws, including the Personal Health Information Protection Act, 2004, and agrees that it will advise all Students that they are required to comply with all applicable privacy laws and Toronto Public Health policies and procedures.

V.4.v Facilities

Toronto Public Health will provide facilities for Students and Toronto Public Health Staff Members with a University Appointment as are agreed to by the Medical Officer of Health and the University's Vice-Provost.

The sharing between the University and Toronto Public Health of infrastructure expenses relevant to this Agreement will be negotiated in good faith from time to time among the University Department Chairs, the Deans or Director and Toronto Public Health.

V.4.vi Continuing Education

The University is committed to providing opportunities for Toronto Public Health Staff Members with a University Appointment to enhance their education skills through faculty development. University Departments and programs will facilitate the professional development of Toronto Public Health Staff Members with a University Appointment through appropriate educational methods (such as interactive seminars, workshops and on-line education skill development programs) relevant to the delivery of teaching and learning.

VI RESEARCH COLLABORATION

From time to time, the parties may decide to collaborate on research projects. In cases where such collaboration involves a joint application to a funding agency or organization, the application will be made in a manner consistent with the policies and procedures of both parties.

Should one party wish to contract research to the other party, the former will enter into an agreement with the latter to carry out the work on terms and conditions which are acceptable to both parties.

Any funding arrangements between the parties will be formalized in a separate agreement setting out terms and conditions and approved in accordance with the policies of each party.

VII GRANT ADMINISTRATION

Concerning research projects of Toronto Public Health Staff Members with a University Appointment, the following procedures will apply:

- i. All grant applications to be administered by the University will be signed by a) the Chair of the University Department in which the principal investigator holds her/his primary appointment, and b) the Dean or Director, and counter-signed on behalf of either or both Toronto Public Health and the University, as follows below in ii) and iii). The Dean or Director may delegate signing authority to the Vice-Dean Research (or equivalent). For grant applications to be administered by Toronto Public Health, the Department Chair's signature is not required. However, a copy of the cover sheet and a summary of each submitted grant should be provided to the Chair of the Department in which the principal investigator holds her/his primary appointment.
- ii. When the research grant is to be administered by the University, senior signing authority will be vested in the Vice-President Research of the University (or his/her delegate). A copy of the cover sheet and a summary of each submitted grant application should be provided to Toronto Public Health if the Toronto Public Health Staff Member with a University Appointment reports to the Medical Officer of Health (or his/her delegate) .
- iii. When the research funds are to be administered by Toronto Public Health, senior signing authority will be vested in the Medical Officer of Health (or his/her delegate).
- iv. When significant Toronto Public Health resources, such as salaries, space and services, are used in research projects, the grant or contract will ordinarily be administered by Toronto Public Health. Where Toronto Public Health administers the grant or contract, Toronto Public Health will receive the indirect cost or overhead funds.
- v. The party that accepts senior responsibility for a research grant will also accept full responsibility for grant administration and record-keeping, and for liaison with the granting agency. If a research grant is administered by one party and the research is conducted at the

premises of the other, there may be an administrative cost to the party conducting the research.

VIII RESEARCH ETHICS REVIEW

Toronto Public Health will operate its own Research Ethics Board (REB) or Boards (or be part of an REB consortium) that will be separate and independent from the University REB. In addition, with respect to human subjects, Toronto Public Health agrees its own REB or REBs (or the REB consortium) will adhere to the Tri-Council Policy Statement (and its updates) and applicable legislation, including but not limited to the Personal Health Information Protection Act, 2004, as may be amended from time to time. Toronto Public Health and the University agree to collaborate, as appropriate and reasonable, in arrangements designed to enhance the effectiveness, efficiency and consistency of ethical review processes.

IX COMMUNICATIONS AND USE OF NAME

Neither party shall use the name or logo of the other without its prior written consent. The parties agree that if joint communications related to their common interests or this Agreement are required, they will prepare any such communications collaboratively and by mutual consent and the joint communications must be approved for Toronto Public Health by the Medical Officer of Health and for the University by the Vice-Provost, Relations with Health Care Institutions.

X APPLICABILITY OF POLICIES

Except as specifically provided for in this Agreement or another agreement signed by the two parties or by an employment or other agreement between Toronto Public Health and a Toronto Public Health Staff Member, each party agrees that Toronto Public Health Staff Members are subject to the policies of Toronto Public Health.

Except as specifically provided for in this Agreement or another agreement signed by the two parties or by an employment or other agreement between one party and a University faculty Member, each party agrees that University faculty Members are subject to the policies of the University.

Toronto Public Health agrees that Toronto Public Health Staff Members with a University Appointment are also bound by, and Toronto Public Health will advise those Staff Members of their obligation to comply with, applicable University policies and procedures, and in particular will follow University research-related policies and procedures when conducting research on the University campus.

Toronto Public Health recognizes and respects that Students and Toronto Public Health Staff Members with a University Appointment are bound by applicable University policies and procedures, including those relating to academic issues, conduct and research, and agrees to make reasonable efforts to facilitate fulfilment of their obligations thereunder.

With respect to any University policies regarding Student placements that refer to hospitals, the parties agree that those policies also apply to Students and Toronto Public Health Staff Members with a University Appointment at Toronto Public Health to the extent that they are relevant. The University will advise all Students and Toronto Public Health will advise all Toronto Public Health Staff Members with a University Appointment that they are subject to such policies.

Toronto Public Health agrees to be bound by the University's *Guidelines to Address Allegations of Research Misconduct* and its Framework to Address Allegations of Research Misconduct with respect to Faculty.

Toronto Public Health recognizes that the University's *Policy for Clinical Faculty* and the *Procedures Manual for the Policy for Clinical Faculty* apply to Toronto Public Health Staff Members with a University Appointment who are Clinical faculty.

Both the University and Toronto Public Health recognize the importance of academic freedom and the need to safeguard the academic freedom of Toronto Public Health Staff Members with a University Appointment. Toronto Public Health acknowledges that academic disputes involving Toronto Public Health Staff Members with a University Appointment will be dealt with under the relevant University Policy.

Notwithstanding the mutual respect of the University and Toronto Public Health for academic freedom, Toronto Public Health Staff Members with a University Appointment remain subject to applicable ethical and clinical guidelines or standards, laws and regulations and to Toronto Public Health's relevant policies or by-laws.

With respect to Clinical faculty, if there is an allegation of a breach of academic freedom and if the Clinical faculty member is eligible under the Policy for Clinical Faculty to have access to the University's Academic Clinical Tribunal which hears the matter and issues a decision making finding of facts and a determination as to whether there has been a breach of academic freedom, Toronto Public Health agrees to be bound by that decision. The Tribunal has no powers to award remedies, or to change any of the provisions of a duly enacted policy or established practice of the University or Toronto Public Health, or to substitute any new provision thereof. The University's Policy for Clinical Faculty provides that "All clinical faculty remain subject to the applicable ethical and clinical guidelines or standards, laws and regulations governing the practice of medicine and the site-specific relevant site's policies or by-laws."

In cases of conflict between the University's academic-related policies and Toronto Public Health's policies, the University's academic-related policies will prevail in relation to academic matters. In cases of conflict between the University's policies and Toronto Public Health's policies related to services to clients, Toronto Public Health's program policies will prevail in relation to public health service matters. In the case of conflict between other University and Toronto Public Health policies, the parties will work together to resolve the issue on a case by case basis.

XI NON-DISCRIMINATION AND HUMAN RIGHTS

The University and Toronto Public Health are committed to human rights and shall comply with the *Human Rights Code (Ontario)* and other applicable rights and equity legislation.

The parties are committed to having an environment free of prohibited discrimination and harassment. Each party will adopt their own appropriate policies with respect to discrimination and harassment and will have guidelines as to how it will deal with allegations of prohibited physical and verbal harassment and sexual harassment. In the cases of allegations of sexual harassment, the parties agree to follow the University's *Sexual Harassment Protocol: Sexual Harassment Complaints involving Faculty and Students of the University of Toronto arising in University-Affiliated Health Institutions* for determining which sexual harassment policy applies and whether the University or Toronto Public Health is responsible for dealing with a complaint. The parties agree that under the Protocol, under Notification of Complaints, fourth paragraph, where Toronto Public Health is to provide to "the University" specified information regarding complaints over which Toronto Public Health has sole jurisdiction, the information is to be provided to the University's Sexual Harassment Officer, who will keep the information confidential in accordance with University's policies and procedures respecting the confidentiality of sexual harassment complaints.

XII INTELLECTUAL PROPERTY

Both the University and Toronto Public Health have their own policies and/or agreements with their personnel regarding the ownership and treatment of inventions and intellectual property. The protocol as between the University and Toronto Public Health regarding inventions and intellectual property is set out in a separate agreement attached as an Appendix to this Agreement. Faculty of Medicine graduate Students and their supervisors are also governed by the University's *Guidelines for Faculty of Medicine Graduate Students and Supervisors in the Context of Commercialization of Inventions Based on Thesis-Related Research*.

XIII LIABILITY, INDEMNIFICATION AND INSURANCE

XIII.1 Liability

The parties agree that the University shall not be liable to the City for any bodily injury (including death), any loss or damage to the property of or to the City, its officers, employees and agents in any manner, arising during, occasioned by, resulting from or in any way attributable to the performance or non-performance of this Agreement, unless such injury, loss or damage is caused or contributed to by the willful or negligent act or omission of the University, its governors, officers, faculty, employees or agents while acting within the scope of their duties.

The parties agree that the City shall not be liable to the University for any bodily injury (including death), any loss or damage to the property of or to the University, its governors, officers, faculty, employees and agents in any manner, arising during, occasioned by, resulting from or in any way attributable to the performance or non-performance of this Agreement, unless such injury, loss or damage is caused or contributed to by the willful or negligent act or omission of the City, its officers, employees or agents while acting within the scope of their duties.

The City assumes legal liability for the proper maintenance of its facilities and services provided in respect of the subject matter of this Agreement.

XIII.2 Indemnification

Subject to the provisions of section 1, the City shall at all times indemnify and save harmless the University, its governors, officers, faculty, employees, agents and Students from and against all claims, demands, damages, costs, expenses, actions and causes of action, whether in law or equity, suits or other legal proceedings howsoever caused (collectively referred to hereafter as "losses") made or brought, prosecuted or threatened to be prosecuted against the University by whomsoever arising out of the City's performance or non-performance of this Agreement.

Subject to the provisions of section 1, the University shall at all times indemnify and save harmless the City, its officers, employees and agents from and against all claims, demands, damages, costs, expenses, actions and causes of action, whether in law or equity, suits or other legal proceedings howsoever caused (collectively referred to hereafter as "losses") made or brought, prosecuted or threatened to be prosecuted against the City by whomsoever arising out of the University's performance or non-performance of this Agreement.

Notwithstanding the provisions of the indemnity set out above and the limitation of liability in section 1 above, each party shall be responsible for all losses made or brought, prosecuted or threatened to be prosecuted by whomsoever arising out of:

- a. the use by that party of any result of any research as contemplated by this Agreement, or

- b. the infringement by that party of any patent, trade mark, industrial design, copyright or other intellectual property right or as a result of the development, use or exploitation thereof.

XIII.3 Insurance

The City shall maintain in full force and effect policies of liability insurance to include coverage for any negligence, malpractice and medical professional liability on behalf of its officers, employees, agents and Students that could arise in the performance or non-performance of this Agreement. This insurance shall include coverage against bodily injury (including death), property damage and personal injury including cross-liability and severability of interest provisions with a combined limit of not less than \$5 million per occurrence. Such insurance coverage will protect Students assigned to the City against legal liability incurred by them while acting within the scope of their duties and arising from the instruction, direction or supervision provided by the City.

The University shall maintain in full force and effect policies of liability insurance to include coverage for any negligence, malpractice and medical professional liability on behalf of its officers, employees and agents that could arise in the performance or non-performance of this Agreement. This insurance shall include coverage against bodily injury (including death), property damage and personal injury including cross-liability and severability of interest provisions with a combined limit of not less than \$5 million per occurrence.

The City and the University will produce satisfactory evidence of insurance coverage to each other as set out above upon written request so to do.

XIII.4 Student Workplace Insurance

Neither the City nor the University is responsible for Workplace Safety and Insurance Board premiums for Students, but the University will be responsible for arranging the relevant Workplace Safety and Insurance Board documentation regarding coverage for eligible Students.

XIV TERMINATION

This Agreement will terminate on **[DATE OF TERMINATION]**, unless extended by mutual written agreement of the two parties.

This Agreement may be terminated by either party as of January 1 in any year during the term of the Agreement by giving to the other party at least twelve (12) months prior written notice.

This Agreement may be amended by mutual written agreement of both parties.

XV GENERAL TERMS

This Agreement and the rights and obligations hereunder are not assignable by either party. This Agreement shall inure to the benefit of and be binding upon the University and the City and their successors.

The parties are independent contractors, and no agency, partnership, joint venture, employee-employer, or franchisor-franchisee relationship is intended or created by this Agreement.

The laws of the Province of Ontario and applicable Canadian law shall govern the terms of this Agreement and the parties agree to submit to the exclusive jurisdiction of the courts of the Province of Ontario for any legal proceedings arising out of this Agreement.

The parties acknowledge that in the event of circumstances beyond the control of either party such as a community disaster, a strike, a fire, a communicable disease outbreak or other situation in which the continued provision of facilities or assignment of students pursuant to obligations under this Agreement would substantially interfere with the Toronto Public Health's obligations or with the University's education or research obligations, each party reserves the right to suspend performing its obligations under this Agreement immediately without penalty and until such time as the party reasonably determines that it is able to resume performance of its obligations herein.

This Agreement constitutes the entire agreement between the parties and supersedes all other prior or contemporaneous representations, agreements, understandings or commitments, whether written or oral, between the parties relating to the subject matter herein. For greater clarity, this Agreement shall mean collectively, the terms and conditions contained in sections I to XV of this document and the Appendix and any other specifically referenced documents. The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions and this Agreement shall be construed as if such invalid provision had been omitted. No provision of this Agreement may be terminated, modified or waived except as set forth in a written agreement executed by authorized representatives of the parties.

This Agreement may be signed in counterparts and each of such counterparts will constitute an original document and such counterparts, taken together, will constitute one and the same instrument.

DRAFT

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers.

THE GOVERNING COUNCIL OF
THE UNIVERSITY OF TORONTO

CITY OF TORONTO

[NAME]
Vice-President and Provost

[NAME]
[FULL TITLE OF SIGNING AUTHORITY]

[NAME]
Vice-Provost, Relations with Health Care Institutions

DRAFT

APPENDIX

INVENTIONS AND INTELLECTUAL PROPERTY AGREEMENT

THIS AGREEMENT dated the **[DATE]** day of **[MONTH, YEAR]** (the "IP Agreement")

BETWEEN

CITY OF TORONTO
(the "City")

and

**THE GOVERNING COUNCIL OF
THE UNIVERSITY OF TORONTO**
(the "University")

WHEREAS Toronto Public Health, a division within the City, and the University have an agreement to collaborate and many Toronto Public Health staff and University faculty members are concurrently appointed;

AND WHEREAS some of these staff members may, from time to time, create inventions and other intellectual property;

AND WHEREAS both the City and the University (individually a "Party" and collectively the "Parties") have their own separate and distinct policies regarding the ownership and treatment of inventions and other intellectual property;

AND WHEREAS it is important for the successful commercialization of such inventions and other intellectual property that there be no uncertainty regarding the application of those policies;

NOW THEREFORE IN CONSIDERATION OF premises and mutual covenants contained within the parties hereto agree as follows:

1. Definitions

In this IP Agreement, the following terms shall be deemed to have the following meanings:

- (a) **"Invention"** – any new and useful art, product, service, discovery, innovation, process, pattern, machine, process of manufacture or composition of matter or a formula thereof, new life form, computer software, compilation of information in whatever medium whatsoever, and attendant know-how or any new and useful improvement thereof, whether or not protected or protectable by patent, copyright or registration as an industrial design or trademark or pursuant to any other intellectual property or trade secret protection law which now exists or may exist in the future which was created with financial support, staff support, or the provision of space, equipment or supplies from either or both parties.

- (b) **"Net Revenues"** – all royalties, license fees and other income (excluding funds received in support of direct and indirect costs of the sponsored research project) received by a Party from the assignment or commercialization of or licensing of rights to an Invention, minus legal and other fees reasonably and actually incurred directly in the process of establishing and maintaining the legal protection of those rights.

- (c) **“Owner”** means the Party determined under section 3.1 to be the owner of all patents, trademarks, copyright, proprietary and/or other intellectual property rights relating to an Invention.
- (d) **“Share”** – the proportionate share of support and Net Revenues determined or assigned to a Party as more particularly described in section 3.2.

2. Mutual Disclosure

- 2.1 When a staff member holding appointments in both the University and Toronto Public Health makes or creates an Invention, he/she shall disclose it to one of the Parties, in accordance with the inventions and intellectual property policies of that Party. If the disclosure indicates that, in the process of creating the Invention, the individual used, in any way, facilities owned, operated or administered by the other Party and/or has received personal financial compensation from the other Party and/or received funds from the other Party that contributed to the direct costs of the project that resulted in the Invention, the Party to which the disclosure has been made will provide a copy of the disclosure to the other Party as soon as possible.
- 2.2 No Party shall enter into a research agreement or contract which imposes any obligation or liability on the other Party, including a commitment of the personnel, students or facilities of the other Party or an obligation with respect to the past, present or future intellectual property rights of the other Party, without the express, written consent of the other Party. The Party wishing to enter into such a research agreement or contract shall provide a copy of the proposed research agreement or contract, in confidence, to the other Party and shall consult fully with respect to the obligation or liability that would be imposed on the other Party.
- 2.3 For the purpose of this IP Agreement, undergraduate and graduate students, clinical and research fellows, and postdoctoral fellows will be treated in the same fashion as staff members holding appointments in both the University and Toronto Public Health in all respects.
- 2.4 Any Invention disclosure disclosed by either Party to the other under this IP Agreement shall be treated as confidential by the receiving Party unless the disclosing Party indicates in writing that it is non-confidential.

3. Ownership

- 3.1 Unless otherwise agreed among the Parties, due to extenuating circumstances, ownership of the patents, trademarks, copyright, proprietary and/or other intellectual property rights relating to the Invention shall vest with the Party on whose premises the Invention was made. If the Invention was made on the premises of both Parties or the Parties cannot agree on where the Invention was made, ownership shall vest with the Party that has provided the greater proportionate share of the salaries of the academic staff members named as inventors for the Invention at the time when the Invention was disclosed. The determination of that proportionate share shall be made by the Parties' Vice-Presidents Research or their delegates.
- 3.2 For all Inventions, the Parties shall determine, by mutual agreement, each Party's proportionate share of support to the research project from which the Invention arose and proportionate share of Net Revenues from the Invention (the "Share"). This determination shall be made jointly by the individuals named in section 7 below or by their designates. The Parties shall consider the following factors in determining each Party's Share: use of the premises of each Party, personal financial compensation paid by each Party to the inventor(s) and any contribution by either Party to the direct costs of the project from which the Invention arose, excluding grants from third parties.

3.3 In all cases, the Invention will be subject to the policies of the Owner.

4. Negotiation and Commercialization

- 4.1 (a) Unless otherwise agreed, the Owner will assume full responsibility for applying for legal protection and/or for commercializing the Invention. The Owner will assume responsibility for all the costs and liabilities incurred in such activities. The Owner will also ensure that the other Party is kept informed about all patent applications, issued patents, licenses or other agreements or events which relate to commercialization of the Invention.
- (b) Inventions may arise involving two or more inventors where each Party is determined to be a joint Owner. In these circumstances, the Parties shall negotiate in good faith an agreement to cooperate to protect and commercialize the jointly-owned Invention and, unless otherwise agreed by the Parties, the Party whose inventors have made the predominant inventive contribution shall be responsible for protecting and commercializing such Invention.
- 4.2 If the Owner decides not to proceed with the application for legal protection and/or the commercialization of the Invention, the Owner shall advise the other Party of its decision within three (3) months of the date of the Invention's disclosure and, at that time, shall offer to assign all its rights to the Invention to the other Party and shall specify the applicable terms and conditions, if any, of such offer.

5. Proceeds from an Invention

- 5.1 All Net Revenues from an Invention will be divided between the Parties in proportion to each Party's Share. Each Party's Share will be distributed in accordance with the Party's intellectual property policies.
- 5.2 If equity in a company is received by the Owner in lieu of revenue in whole or in part, the equity shall be divided between the Parties in proportion to each Party's Share.

6. Dispute Resolution

- 6.1 Any dispute arising under this IP Agreement which cannot be settled amicably between the Parties shall be submitted to arbitration by a panel composed of one member nominated by the University, one member nominated by Toronto Public Health and one member selected by the first two arbitrators. The panel's decision will be made by a majority of the three panel members within thirty (30) days of its appointment. The decision shall be final and binding upon the Parties.
- 6.2 If the nominees cannot agree on the identity of the third panel member, an application will be made to the court for the appointment of a third arbitrator.

7. Notices

- 7.1 All notices required under this Agreement shall be in writing and, unless otherwise agreed, shall be delivered by mail, facsimile transmission (with confirmation of delivery), or in person to the Parties at the following addresses:

University: Vice-President, Research
University of Toronto
27 King's College Circle
Toronto, Ontario M5S 1A1

The City: Medical Officer of Health
City of Toronto Health Unit
277 Victoria Street
Toronto, ON M5B 1W2

8. Amendment

8.1 This IP Agreement may be modified at any time by mutual written agreement of the Parties.

9. Term and Termination

9.1 This IP Agreement shall enter into force as of the date first written above and shall remain in force until termination by mutual agreement of the Parties or thirty (30) days after presentation of written notice of termination by one Party to the other.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and date first above written.

FOR THE GOVERNING COUNCIL OF
THE UNIVERSITY OF TORONTO

Vice-Provost, Relations with Health Care Institutions

Secretary of Governing Council

FOR CITY OF TORONTO

Medical Officer of Health
