

UNANIMOUS MEMBERS AGREEMENT

This Unanimous Members Agreement made as of and effective from the 12th day of October, 2004 (the "Effective Date").

AMONG:

etc

(collectively referred to herein as the "Members")

- and -

S.E.A.R.C.H.
(Swift Efficient Application of Research In Community Health) Canada
("SEARCH Canada")

WHEREAS:

- A. AHFMR has been operating a program known as the SEARCH Program;
- B. SEARCH Canada has been incorporated as a not-for-profit company pursuant to the *Companies Act* (Alberta);
- C. AHFMR has agreed to transfer the SEARCH Program to SEARCH Canada pursuant to a Licence and Transfer Agreement to be entered into concurrently with this Agreement;
- D. AHFMR has agreed to provide funding for the transition year from April 1, 2004 to March 31, 2005;
- E. The Members wish to enter into this Agreement as a unanimous agreement amongst the Members of SEARCH Canada for the purpose of regulating the business, affairs and financing of SEARCH Canada;

NOW THEREFORE the parties hereto agree as follows:

Section 1 - Definition and Interpretation

(1) Definitions: In this Agreement, including this Section, the following defined terms shall have the meanings indicated:

- (a) "Directors" means the individuals who are, from time to time, in accordance with the terms of this Agreement, duly elected or appointed as directors of SEARCH Canada, and "Director" means any one of the Directors and "Board of Directors" means the board of directors of SEARCH Canada as constituted from time to time;
- (b) "Member" means any one of the parties identified on the first page of this Agreement as Members, and any other person who becomes a Member of SEARCH Canada;
- (c) "Ordinary Resolution" means:
 - (i) a resolution passed by a majority of the Members entitled to vote on that resolution at a meeting of Members, or
 - (ii) a written resolution signed by all Members entitled to vote on that resolution;
- (d) "Special Resolution" means:
 - (i) a resolution passed by not less than 2/3 of the Members entitled to vote on that resolution at a meeting of Members, or
 - (ii) a written resolution signed by all members entitled to vote on that resolution.

(2) Other Definitions: All other defined terms contained in Sections 2 to 14 of this Agreement shall pertain only to the Section in which the defined term is contained.

(3) Further Assurances: Each party undertakes and agrees to execute and deliver any other documents required to carry out the terms of this Agreement in accordance with their true intent.

(4) Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta. The parties hereby submit to the jurisdiction of the Courts of Alberta.

(5) Currency: All references in this Agreement to dollar amounts shall be in lawful money of Canada.

(6) Calculating Time: When calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference date in calculating such period shall be excluded. If the last day of such period is not a business day (being a day on which SEARCH Canada's bankers are open for business), the period in question shall end on the next following business day.

Section 2 - Directors and Officers

(1) Directors: The Board of Directors of SEARCH Canada shall consist of not less than five (5) nor more than eleven (11) Directors as recommended by the Nominating Committee in accordance with Section 5.

(2) Powers of the Board of Directors: The Board of Directors shall, subject to this Agreement, have all of the powers to manage the business and affairs of SEARCH Canada. Such powers shall include the power to appoint and dismiss officers and employees and to establish policies for compensation of officers and employees.

(3) Election of Directors: The Members shall, except as otherwise provided in this Agreement, vote so as to cause the individuals recommended by the Nominating Committee in accordance with Section 5, to be elected as Directors of SEARCH Canada at each and every meeting of SEARCH Canada where Directors of SEARCH Canada are being elected.

(4) Officers: The Directors shall have the authority to:

- (a) designate the offices of SEARCH Canada; and
- (b) appoint the individuals who will hold the designated offices.

(5) Remuneration of Officers, Directors and Committee Members: Remuneration, whether by way of salary or otherwise, and any payment or reimbursement of expenses shall only be paid by SEARCH Canada to an Officer,

Director or Committee Member pursuant to a written agreement approved by the Board of Directors.

Section 3 - Issue, Disposition and Condition of Memberships

- (1) Restrictions: Memberships shall not be sold, transferred, assigned, pledged, hypothecated or encumbered by a Member.
- (2) New Members: If a person who is not a party to this Agreement ("Purchaser") becomes a Member, regardless of how the Membership is acquired, the Purchaser shall be deemed to have acquired the Membership subject to the terms of this Agreement and be a party to this Agreement. SEARCH Canada may require the Purchaser to execute in counterpart a copy of this Agreement or a revised version of this Agreement showing the Purchaser as a party to the Agreement as amended to reflect the addition of the Purchaser as a Member.
- (3) Additional Memberships: The Board of Directors may, from time to time, authorize the issue of any number of additional Memberships at such price and to such persons as the Directors determine to be in the best interests of SEARCH Canada.
- (4) Resignation as Member: A Member may terminate their Membership by giving written notice to SEARCH Canada, in which event the Member shall have no further rights under this Agreement.

Section 4 - Annual Fees and Funding

- (1) Annual Membership Fee: The Board may establish the annual fee for Membership in SEARCH Canada, taking into account the long-term funding to be provided by the Members as outlined in the balance of this Section 4.
- (2) Long-Term Funding: The Members confirm that they have approved the Five Year Strategic Plan, a copy of which is attached hereto as Appendix 1 (the "Plan"). The Members further confirm that they are committed to providing long-term funding to SEARCH Canada based upon and taking into account the funding requirements necessary to permit SEARCH Canada to implement the Plan, meet its objectives and

provide SEARCH Programs. Each Member shall enter into a funding agreement with SEARCH Canada (the "Funding Agreements"). The terms of each Funding Agreement shall:

- (a) be consistent with the funding commitments outlined in the Memorandum of Understanding signed by the respective Member;
- (b) be substantially similar to the terms and conditions set out in Appendix 2; and
- (c) otherwise be as negotiated in good faith between SEARCH Canada and the relevant Member.

Notwithstanding Section 4(2)(b), the Funding Agreement entered into between AHFMR and SEARCH Canada shall contain such additional and modified terms as are appropriate to recognize the funding provided by AHFMR, the Licence and Transfer Agreement described in Recital paragraph B and the risk being assumed by AHFMR resulting from the transfer of the SEARCH Program to SEARCH Canada.

(3) Review of the Plan and Funding Requirements: The Directors shall review the Plan on a regular basis, and upon an Ordinary Resolution of the Members. The Plan may be revised by the Directors. The Directors shall also review the long-term funding requirements of SEARCH Canada on a regular and ongoing basis. Without limiting the generality of the foregoing, the Directors shall undertake a review during the calendar quarter October 1, 2006 to December 31, 2006, which review shall include an evaluation of the performance of SEARCH Canada as compared to the Plan (including any amendments). If the performance of SEARCH Canada is substantially in compliance with the Plan, and there have been no material deviations from the Plan, the funding commitments of the Members shall remain as outlined in this Section 4 and the applicable Funding Agreements. If the performance of SEARCH Canada has not been in substantial compliance with the Plan or if there has been a material deviation from the Plan, any Member may require the renegotiation of its Funding Agreement.

(4) New Plan: The Directors shall prepare a new long term (five year) plan as a continuation of the Plan by October 31, 2008. Upon completion of the new long term

(five year) plan, SEARCH Canada shall enter into negotiations with each Member to extend their respective Funding Agreement and revise their funding commitment.

Section 5 - Nominating Committee

- (1) The Members shall establish, as a standing committee, a Nominating Committee which shall consist of:
 - (a) one (1) individual nominated jointly by urban regions;
 - (b) one (1) individual nominated jointly by rural regions
 - (c) one (1) individual nominated by the academic institutions
 - (d) one (1) individual nominated by AHFMR, who shall be the chair of the Nominating Committee.
- (2) If any of the Members identified in Section 5(1) cease to be a Member of SEARCH Canada, upon ceasing to be a Member they shall no longer be entitled to participate in nominating an individual to the Nominating Committee. If any university in Canada becomes a Member of SEARCH Canada, the individual to be nominated pursuant to Section 5(1)(c) shall be nominated by all of the universities that are then Members of SEARCH Canada.
- (3) Individuals nominated pursuant to Section 5(1) need not be employed by or affiliated with the Member who nominated them.
- (4) If any Member who is entitled to nominate an individual to the Nominating Committee wishes to replace their nominee, such replacement shall be made in consultation with the President of SEARCH Canada, and by notice in writing to the President, the Directors and all other Members.
- (5) The Nominating Committee shall recommend candidates for the Board of Directors as and when vacancies occur, and the Nominating Committee shall recommend terms of office for candidates of either two (2) or three (3) years, such that not more than one-half ($\frac{1}{2}$) of the terms of the Directors expire in any given year, and with the intent that the terms of one-third ($\frac{1}{3}$) of the Directors expire each year. The

Nominating Committee shall also recommend the Director to be the chair of the Board of Directors. The Nominating Committee shall recommend candidates for the Board of Directors that will produce a balanced mix of stakeholder perspectives and independent perspectives, with a primary focus on strengthening SEARCH Canada and meeting the objectives of the Plan.

Section 6 - Other Committees

The Board may appoint committees whose members will hold the offices at the will of the Board. The Board shall determine the duties of such committees, establish terms of reference for such committees and may fix by resolution, any remuneration to be paid. Such committees may include standing committees of the Board, ad hoc committees and advisory committees to management, including committees to provide advice and recommendations to management of SEARCH Canada on the planning and execution of programs of SEARCH Canada.

Section 7 - Intellectual Property

The Board shall establish, implement and revise, from time to time, a policy to maximize the value and use of intellectual property, the purpose of which shall be to:

- (a) provide a mechanism to identify and record valuable intellectual property;
- (b) determine ownership of intellectual property, while recognizing existing intellectual property policies of its Members;
- (c) ensure appropriate steps are taken to protect intellectual property; and
- (d) permit SEARCH Canada, creators of the intellectual property, Members and other stakeholders to use the intellectual property, as appropriate.

Section 8 - Default and Termination of Membership

If a Member (“Defaulting Member”) breaches any term of this Agreement and fails to remedy the default within thirty (30) days of receiving written notice of the default from the remaining Members (the “Non-Defaulting Members”) then SEARCH

Canada may, by written notice delivered to the Defaulting Member not more than thirty (30) days thereafter, terminate the Membership of the Defaulting Member.

Section 9 - General Provisions

(1) Voting to Implement Agreement: Each of the Members shall vote, in a manner that fully implements the terms and conditions of this Agreement.

(2) Company's Covenant: SEARCH Canada, by its execution of this Agreement, acknowledges that SEARCH Canada has actual notice of the terms of this Agreement, consents to it and covenants with each of the Members that it will at all times during the continuance of this Agreement be governed by this Agreement in carrying out SEARCH Canada's business and affairs and accordingly, shall give or cause to be given such notices, execute or cause to be executed such deeds, transfers and documents, and do or cause to be done all such acts, matters and things as may from time to time be necessary or conducive to carrying out the terms and intent of this Agreement, but nothing in this Section shall be so construed as to prevent, restrict or in any way interfere with the right, duties and obligations of SEARCH Canada as contained in any formal or other instrument to which SEARCH Canada is, or may hereafter become a party, which instrument is executed by SEARCH Canada in accordance with a resolution of the Board of Directors of SEARCH Canada.

Section 10 - Entire Agreement

(1) Entire Agreement: The Members agree that the provisions of this Agreement supersede all former understandings or arrangements related to Memberships and all such understandings are hereby declared to be of no further force or effect whatsoever except to the extent, if any, that the substance thereof is incorporated into this Agreement.

(2) Amendment: Except as expressly provided herein, this Agreement may only be altered or amended upon the unanimous agreement of the Members. Any alteration or amendment shall be reduced to writing and signed by the Members of SEARCH Canada at the effective date of the amendment.

(3) Appendices: The following Appendices are incorporated into and form part of this Agreement:

- Appendix 1 – Five Year Strategic Plan
- Appendix 2 – Funding Agreement for Members

but the Appendices to the Five Year Strategic Plan do not form part of this Agreement.

Section 11 - Assignment

The Members shall not assign or transfer any rights or obligations hereunder, in whole or in part, to any person who is not a party to this Agreement without the unanimous consent of the Members.

Section 12 - Notice

All notices or other communications required or permitted to be given hereunder shall be given in writing and shall be sent by personal service or pre-paid registered mail or facsimile transmission to the following address or such other address as the relevant party may notify from time to time:

Notices sent by pre-paid registered mail shall be deemed to be received by the addressee on the seventh day (excluding Saturdays, Sundays, statutory holidays and any period of postal disruption) following the mailing thereof. Notices personally served shall be deemed received when actually delivered, provided such delivery shall be during normal business hours.

Section 13 - Counterparts

This Agreement may be executed in any number of counterparts with the same effect as if the parties all signed the same document. All counterparts shall be construed together and shall constitute one instrument.

Section 14 - Enurement

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

S.E.A.R.C.H. (Swift Efficient Application of Research In Community Health) Canada

Per: _____
[Name]
[Title]

Per: _____
[Name]
[Title]

Per: _____
[Name]
[Title]

Per: _____
[Name]
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Per: _____
[Name]
[Title]

Per: _____
[Name]
[Title]

APPENDIX 1
FIVE YEAR STRATEGIC PLAN

(The appendices within the Plan provide additional information but do not form part of the Plan for the purposes of the Unanimous Members Agreement)

**APPENDIX 2
FUNDING AGREEMENT FOR MEMBERS**

FUNDING AGREEMENT

THIS AGREEMENT made as of and effective from the 12th day of October, 2004 (the "Effective Date")

BETWEEN:

(the "Funder")

- and -

S.E.A.R.C.H. (Swift Efficient Application
of Research in Community Health) CANADA
("SEARCH Canada")

WHEREAS:

- A. The Funder is a member of SEARCH Canada;
- B. The Funder has agreed to provide funding to SEARCH Canada in accordance with the terms of this Agreement;

NOW THEREFORE the parties agree as follows:

Section 1 - Definitions and Interpretation

(1) In this Agreement, including this Section, the following defined terms have the meanings indicated:

- (a) "Directors" means the Board of Directors of SEARCH Canada;
- (b) "Grant" means the funds provided by the Funder to SEARCH Canada described in Section 2(1);
- (c) "Member" means any person who is, at the relevant time, a member of SEARCH Canada;
- (d) "Plan" means the 5 Year Strategic Plan for SEARCH Canada, as the same may be amended or revised from time to time;

(e) "Unanimous Members Agreement" means the Agreement entered into by all of the Members of SEARCH Canada, and SEARCH Canada dated October 12, 2004;

(2) This Agreement shall be governed by and construed in accordance with the laws in force in the Province of Canada. The parties hereby submit to the jurisdiction of the courts of Canada.

(3) All references to dollar amounts in this Agreement are in Canadian dollars.

(4) The following Schedule is incorporated into and forms part of this Agreement:

Schedule "A" – Payment Schedule

Section 2 - Grant Funding

(1) The Funder shall pay to SEARCH Canada the total amount of \$_____ in accordance with the Payment Schedule set out on Schedule "A".

[This amount will reflect the commitments outlined in the applicable MOU]

(2) SEARCH Canada shall:

(a) use the Grant only for the operation of SEARCH Canada in accordance with the Plan; and

(b) spend the Grant in accordance with the budget approved by the Directors from time to time.

Section 3 - Accounting, Records and Reports

(1) SEARCH Canada shall keep full, accurate and complete records and books of account relating to SEARCH Canada's financial operations and expenditure of the Grant, all such records and books of account to be kept in accordance with Canadian generally accepted accounting practices.

(2) SEARCH Canada shall prepare and provide to the Funder:

(a) within thirty (30) days after the end of each calendar quarter, a brief activity report and statement of expenditures for such calendar quarter;

- (b) within ninety (90) days after the end of each fiscal year, a detailed activity report and copies of the audited financial statements for such fiscal year; and
- (c) such additional activity and financial reports as the Funder may request, acting reasonably.

(3) The Funder may, from time to time, upon reasonable prior notice to SEARCH Canada, carry out or have its auditors carry out an audit of the records and books of account maintained by SEARCH Canada in accordance with this Section 3.

Section 4 - Term and Termination

(1) This Agreement shall commence on the Effective Date and shall continue until March 31, 2009. Not later than November 1, 2008, SEARCH Canada and the Funder shall enter into negotiations to extend this Agreement and revise the amount of the Grant.

(2) If SEARCH Canada:

- (a) has breached any of its material obligations pursuant to this Agreement and has failed to remedy such breach within thirty (30) days after notice in writing from the Funder, or has failed to commence steps to remedy the breach and to diligently pursue the same within thirty (30) days after notice in writing from the Funder;
- (b) becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, assignment or arrangement with its creditors, or any steps are taken or proceedings commenced by any person for the dissolution, winding up or other termination of SEARCH Canada's existence or the liquidation of its assets; or
- (c) has a trustee, receiver, receiver manager or like person appointed with respect to the business or assets of SEARCH Canada;

the Funder may, by notice in writing terminate this Agreement.

(3) If this Agreement is terminated pursuant to Section 4(2), the Funder shall have no further obligation to make payments under Section 2(1).

(4) The parties confirm that the Funder has the right to require the renegotiation of this Agreement in accordance with Section 4(3) of the Unanimous Members Agreement.

Section 5 - Publicity

SEARCH Canada and the Funder shall not originate publicity, news releases, public statements or announcements relating to this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

Section 6 - Relationship

Nothing in this Agreement shall be construed as constituting either party as the agent, employee or representative of the other party, or as creating any partnership or imposing upon any party any partnership duty or liability.

Section 7 - Assignment

The parties shall not assign this Agreement or any part hereof or any rights hereunder without the written consent of the other party.

Section 8 - Notice

(1) Any notice or other communication required or authorized to be given by either party to the other party pursuant to this Agreement (collectively referred to as "Notices") shall be in writing and shall be delivered personally or sent by prepaid registered mail or facsimile transmission to the following address or such other address as the relevant party may notify from time to time:

TO: THE FUNDER

TO: SEARCH Canada

Attention: President and Chief Executive Officer

Notices sent by prepaid registered mail shall be deemed to be received by the addressee on the seventh day (excluding Saturdays, Sundays, Statutory Holidays and any period of postal disruption) following the mailing thereof. Notices personally served shall be deemed to be received when actually delivered, provided such delivery shall be during normal business hours.

Section 9 - Further Assurances

The parties shall with reasonable diligence take all action, do all things, attend or cause their representatives to attend all meetings and execute all further documents, agreements and assurances as may be required from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.

Section 10 - Dispute Resolution

(1) In the event of any dispute between SEARCH Canada and the Funder, the parties agree to use reasonable efforts to resolve any dispute between them as efficiently and cost-effectively as possible, and the parties shall:

- (a) make *bona fide* efforts to resolve all disputes by negotiations in good faith;
- (b) ensure their representatives will meet, negotiate in good faith and seek to resolve each dispute without litigation, controversy or any claims arising from this Agreement, or breach of it; and
- (c) provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate those negotiations.

(2) If a dispute has not been resolved through negotiation in good faith within thirty (30) days, either party may require mediation with a mutually acceptable mediator. If the parties cannot agree on a mediator, the parties will request the President or Executive Director of the Alberta Arbitration and Mediation Society to assist in the selection process. The parties will share the cost of the mediator equally and bear their own costs associated with the mediation.

(3) No evidence of anything said or any admission or communication made in the course of the negotiations or mediation is admissible in any legal proceeding, except with the consent of the parties.

Section 11 - Enurement

This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

THE FUNDER

**S.E.A.R.C.H. (Swift Efficient
Application of Research in
Community Health) CANADA**

Per: _____
[Name]
[Title]

Per: _____
[Name]
[Title]

SCHEDULE "A"

PAYMENT SCHEDULE

Payable on or before January 1, 2005 - \$ _____

Payable on or before January 1, 2006 - \$ _____

Payable on or before January 1, 2007 - \$ _____

Payable on or before January 1, 2008 - \$ _____