CO-OPERATION AGREEMENT

between

[        ]

and

[        ]
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CO-OPERATION AGREEMENT

between

[ ]

and

[ ]

1.1

an expression which denotes -

1.1.1

any one gender includes the other genders;

1.1.2

a natural person includes an artificial person (and vice versa);

1.1.3

the singular include the plural (and vice versa);

1.2

the following expressions shall bear the following meanings and related expressions shall bear corresponding meanings) -

1.2.1

"AFSA" - the Arbitration Foundation of Southern Africa or its successor-in-title;

1.2.2

"agreement" – this agreement together with all of its annexures, if any, as amended in writing from time to time;

1.2.3

"business" - [DESCRIPTION OF THE MEDICAL PRACTICE];
1.2.4 "business day" - any day other than a Saturday, Sunday or official public holiday in South Africa; [FURTHER INSTRUCTIONS TO BE PROVIDED ON WHETHER THE MEDICAL PRACTITIONERS ARE GOING TO WORK ON WEEKENDS AND PUBLIC HOLIDAYS]

1.2.5 "business hours" - 09h00 until 13h00 and 14h00 until 17h30 on business days; [CONFIRM BUSINESS HOURS]

1.2.6 "emergency service" - [describe the emergency service provided by business]

1.2.7 "facilities" - those facilities to be commonly used by the parties as listed in annexure A hereto;

1.2.8 "individual party(ies)" - any one of [ ] or [ ] individually;

1.2.9 "individual rooms" - those rooms which are specifically designated to the individual parties in accordance with annexure C;

1.2.10 "normal service" - [describe the normal service provided by business]

1.2.11 "other parties" - means the other of the parties excluding the individual party;

1.2.12 "parties" - collectively [ ] and [ ] [THE NAMES OF THE MEDICAL PRACTITIONERS TO BE INSERTED];

1.2.13 "property" - [DESCRIBE PROPERTY] subject to a lease agreement, annexed hereto as annexure B, concluded
between [_____] and [______], dated [_______], to be
used by the parties in the performance of the terms of this
agreement. The property shall be divided by the parties in
accordance with the floor plan annexed hereto as annexure C;

1.2.14 “services” – those services to be shared by the parties as
listed in annexure D hereto;

1.2.15 “signature date” – date of signature of this agreement by the
signatory which signs last in time;

1.2.16 “South Africa” – the Republic of South Africa;

1.3 any reference to any statute, regulation or other legislation shall be a
reference to that statute, regulation or other legislation as at the
signature date, and as amended or re-enacted from time to time;

1.4 if any provision in a definition a substantive provision conferring rights
or imposing obligations on any party, then, notwithstanding that it is
only in a definition, effect shall be given to that provision as if it were a
substantive provision in the body of this agreement;

1.5 where any terms is defined within a particular clause, other than this
1, that term shall bear the meaning as described to it in that clause
whenever it is used in this agreement;

1.6 where any number of days to be calculated from a particular day,
such number shall be calculated as excluding such particular day and
commencing on the next day. If the last day of such number so
calculated falls on a day which is not a business day, the last day
shall be deemed to be the next succeeding day which is a business
day. [DEPENDS ON THE BUSINESS DAYS OF THE PARTIES]
1.7 any reference to days (other than a reference to business days) months or years shall be a reference to calendar days, months or years, as the case may be;

1.8 any term which refers to a South African legal concept or process (for example, without limiting the aforegoing, winding-up or curatorship) shall be deemed to include a reference to the equivalent or analogous concept or process in any other jurisdiction in which this agreement may apply or to the laws of which a party may be or become subject;

1.9 the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s;

1.10 the terms of this agreement having been negotiated, the *contra proferentem* rule shall not be applied in the interpretation of this agreement.

**RECORDAL**

2.1 It is recorded that -

2.1.1 the parties have agreed to formally co-operate with each other in sharing common facilities and services in order to provide an efficient and cost effective healthcare service to each of their clients on the terms and conditions as set out in this agreement.

2.1.2 the parties shall practice for their own individual accounts and shall not share or participate, in any manner, in their individual practice profits or losses.

2.1.3 this agreement does not constitute a joint venture nor a partnership between the parties;
COMMENCEMENT AND DURATION

This agreement shall commence on the signature date and shall continue thereafter for an indefinite period unless terminated in accordance with 11.

CO-OPERATION

4.1 The parties shall co-operate with each other in order to provide an efficient and cost effective healthcare service to each of their clients.

4.2 By agreement between the parties -

4.2.1 the facilities to be shared between the parties are those listed in annexure A hereto; and

4.2.2 the services to be shared between the parties are those listed in annexure D hereto;

Costs

4.3.1 The costs of the shared facilities and services shall be shared between the parties equally.

4.3.2 [NOTE: PARTIES SHOULD RECORD THE COST SHARING WHETHER EQUAL OR ON A PRO RATA BASIS]

4.3.3 Payment of the costs by the parties shall be effected as follows:

4.3.3.1 [ ];

4.3.3.2 [ ];

4.4 Emergency services
4.4.1 The parties agree that they will provide emergency services for their patients outside of business hours. The parties will provide such services on a rotational basis as agreed between the parties from time to time in writing.

4.5 Leave

4.5.1 The parties agree that should any one of the individual parties take annual or sick leave ("leave individual"), the other of the parties shall provide both normal and emergency services to the leave individual's patients during the leave individual's absence from the business.

4.5.2 The individual party, who provides the normal or emergency service to the leave individual’s patient in accordance with 4.5.1, shall be re-imbursed for the services so provided to the patient by the leave individual within 14 days after the individual party invoicing the leave individual.

4.5.3 Should the leave individual be absent from the business in excess of [ ] days per annum, the other of the parties shall be entitled to demand in writing from the leave individual that the leave individual employ, within 7 days of receipt of the written demand, a locum to administer the leave individual’s practice until the leave individual returns.

4.5.4 Should the leave individual fail and/or refuse to employ a locum in accordance with 4.5.3, the other parties shall be entitled to employ a locum to administer the leave individual’s practice at the leave individual’s expense.

5 USE OF PROPERTY, FURNITURE AND EQUIPMENT

5.1 Property
5.1.1 The parties have read the lease agreement annexed hereto as annexure B and agree to be bound by the terms and conditions stated therein.

5.1.2 The property shall be divided between the parties as provided for in the floor plan annexed hereto as annexure C.

5.1.3 The parties shall have access to all the common areas and their individual rooms only.

5.1.4 [PARTIES SHOULD SPECIFY WHETHER ACCESS TO THE PROPERTY OR PART THEREOF IS LIMITED TO CERTAIN TIMES OR TO CERTAIN PEOPLE OR STAFF]

5.1.5 The property shall be used by the parties for the purposes of the business and all business incidental and ancillary thereto and in accordance with the terms of the lease agreement annexed hereto marked B, and for no other purpose whatsoever.

5.2 Furniture and equipment

5.2.1 The parties, in the utmost good faith, shall use the furniture and equipment for the purposes that it is intended and for no other purpose whatsoever.

5.2.2 [PARTIES SHOULD SPECIFY ANY SPECIFIC REQUIREMENTS FOR FURNITURE AND EQUIPMENT AND THERE USAGE, IF ANY]

6 CO-OPERATION MANAGEMENT COMMITTEE
6.1 The implementation and day-to-day management of the matters contemplated herein shall vest in the co-operation management committee ("the committee").

6.2 Subject to 6.1, the committee shall constitute of [ ] members to be appointed as follows -

6.2.1 [ ] to be appointed by [ ];

6.2.2 [ ] to be appointed by [ ].

6.3 All decisions relating to issues forming the subject matter of this agreement, including but not limited to, the rental of the property and the use of the facilities and services shall be taken at meetings of the committee at which a quorum is present.

6.4 A quorum for meetings of the committee shall be [ ] members.

6.5 If no quorum is present at any meeting of the committee, the meeting shall be adjourned to a date seven days later, at the same time and venue, or if that day is a Saturday, Sunday or public holiday, to the next succeeding business day and if, at such adjourned meeting a quorum is not present within fifteen minutes from the time of the meeting, the committee members present shall constitute a quorum.

6.6 At all meetings of the committee each member shall have one vote.

6.7 No resolution of the committee shall be effective unless the members of the committee required to be present at a meeting to constitute a quorum shall have voted in favour thereof.

6.8 A resolution signed by all persons required to be present at a committee meeting to constitute a quorum shall be valid and effective as if it had been adopted by a duly convened committee meeting.
6.9 The chairman at committee meetings shall be appointed by the committee and shall not have a casting or second vote.

6.10 If a deadlock occurs at a meeting of the committee, or should the parties disagree as to whether or not a decision needs to be approved by the committee, any party shall be entitled to require such deadlock to be resolved in accordance with the provisions of 11.

RESTRAINT

7.1 For the purpose of this clause 7 the terms -

7.1.1 "restraint area" shall mean any area/s within a radius of two (2) kilometres from the property where the parties conduct business;

7.1.2 "restrained business" shall mean the business.

7.2 The parties undertake to each other that they will not whilst a party to this agreement and for a period of one year from the date on which they are no longer a party to this agreement for whatever reason, either directly or indirectly, and whether as principal, agent, partner, shareholder, member, director, employee, consultant, representative, financier or in any other capacity whatever be engaged in, or be associated with or interested in any firm, business, company, close corporation, trust or other association or entity situate within the restraint area and which is similar to the restrained business or themselves conduct the restrained business.

7.3 The parties further undertake to each of them that they will not, whilst a party to this agreement or for a period of two years after they are no longer a party to this agreement for whatever reason, either directly or indirectly and whether for themselves or on behalf of any third party
whatever, encourage, solicit or advise any employee and/or client of the parties to leave the employ of the parties.

7.4 The restraint referred to in this clause 7 shall be operative throughout the restraint area.

7.5 The provisions of this clause 7 shall be construed as imposing a separate and independent restraint in respect of -

7.5.1 each of the years falling within the restraint period referred to in clause 7.2;

7.5.2 every locality falling within the restraint area;

7.5.3 every activity falling within the ambit of the restrained business.

7.6 The parties acknowledge that the restraint imposed upon them in terms of this clause 7 is reasonable as to geographical area, period, capacity and type of activity and is reasonably necessary to protect the proprietary interests of the parties having regard to the professional status which the parties will occupy within the property, the parties' relationship with the clients and the information which the parties will acquire in regard to the business activities of the property all of which is acknowledged by the parties to be proprietary to the property and material to the parties in the successful conduct of its business.

7.7 Should any provision of this clause 7 or part thereof be found by any competent court to be defective or unenforceable for any reason whatever, the remaining provisions of this clause 7 shall continue to be of full force and effect.

7.8 The provisions of this clause 7 shall be operative and binding on the parties notwithstanding that a dispute may arise between the parties
regarding this clause 7 and pending a resolution of any such dispute by litigation or otherwise, the parties shall remain bound by all the provisions of this clause 7 and either party shall be entitled to apply to a court for the appropriate interim relief.

7.9 The restraint in this clause 7 shall apply to the property.

**OBLIGATIONS OF THE PARTIES**

Each party shall at all times -

8.1 display utmost good faith towards other parties in all matters relating to this agreement;

8.2 avoid a conflict between the interests of implementing the terms of this agreement and its own interests, which shall be subservient to the implementation of this agreement;

8.3 make a full disclosure of information relating to the subject matter of this agreement to the other parties, including the furnishing of explanations of any such matters relating to this agreement when reasonably requested to do so;

8.4 devote such time as may be necessary to ensure implementation of this agreement;

8.5 provide information and generally do whatever may be requisite or necessary to promote and develop the medical skills of the parties.

**CONFIDENTIALITY**

9.1 It is recorded that the parties, by virtue of the respective association with each other in terms of this agreement, have and will become possessed of and have and will have access to the trade secrets and confidential information of each other including, but without limiting the
generality of the aforegoing, the following matters, all of which are
hereinafter referred to as the "trade secrets" -

9.1.1 know-how, processes and techniques;

9.1.2 knowledge of systems and influence of the party’s clients,
suppliers and other business associates;

9.1.3 the contractual arrangements between the other party’s clients
and their business associates;

9.1.4 the financial details of the other party’s relationship with their
business associates;

9.1.5 the financial details (including credit and discount terms)
relating to the other party’s clients;

9.1.6 the names of prospective clients of the parties and their
requirements;

9.1.7 other matters which relate to medical skills of the other party
and in respect of which information is not readily available in
the ordinary course of the business to a competitor of the
party.

9.2 Having regard to the facts recorded in 9.1 each of the parties
irrevocably undertaken in favour of the others, that in order to protect
their respective trade secrets -

9.2.1 it will not during the currency of this agreement either use or
directly or indirectly divulge or disclose to others (except as
required by the terms of this agreement and as required by the
law) any of the other party’s trade secrets;
9.2.2 any written instructions, drawings, notes, memoranda or records related to the other party’s trade secrets which come into its possession during the period of this agreement, shall be deemed to be the property of such party and shall be surrendered to the relevant party on demand;

9.2.3 it will not during the period of this agreement either for itself or as the agent of anyone else, persuade, induce, solicit, encourage or procure any executive of any party to furnish any information or advice acquired by such to anyone else which might result in any employee of the relevant party becoming employed by, directly or indirectly, or interested in any manner in, any concern.

BREACH

Should either party breach any provision of this agreement and fail to remedy such breach within fourteen days after receiving written notice requiring such remedy, then (irrespective of the materiality of such breach or provision) the other party shall be entitled, without prejudice to its other rights in law including any right to claim damages, to cancel this agreement or to claim immediate specific performance of all of the defaulting party’s obligations whether or not otherwise then due for performance. Notwithstanding the foregoing, if the breach constitutes repudiation, the other party shall not be required to give notice requesting the remedy thereof before cancelling this agreement.

TERMINATION

Each party shall be entitled to terminate this agreement on giving two month’s written notice of its intention to do so.

This agreement shall be terminated by either party when one of the following events occur -
11.2.1 Resignation;

11.2.2 Retirement;

11.2.3 Permanent incapacity;

11.2.4 Death;

11.2.5 Guilty of misconduct;

11.2.6 Unprofessional or improper conduct; or

11.2.7 Insolvency.

Where the provisions of 11.2 apply, the concerned party terminating the agreement shall provide the remaining parties with his or her clients’ medical records and/or let and/or sell his or her property.

11.4 Dissolution after termination

11.4.1 Where this agreement is terminated in any manner-

11.4.1.1 the parties shall pay the outstanding costs referred to in 4.3, including any cancellation fees or damages payable on the termination of the lease agreement and any other expenses or damages related to the termination of this agreement;

11.4.1.2 the furniture and equipment and any other assets shall be returned to the respective owners; and

11.4.1.3 parties shall retain their patient’s records, unless such patient determines otherwise.
DEADLOCK AND DISPUTES

12.1 Should any deadlock or dispute arise, then the parties to such deadlock or dispute undertake to refer such deadlock or dispute for mediation in terms of the provisions of this 12 in order to attempt to resolve such deadlock or dispute. Such mediation shall be conducted in good faith and the parties to the mediation undertake to use reasonable endeavours to resolve such deadlock or dispute to be resolved.

12.2 If a deadlock or dispute arises, any party to such deadlock or dispute shall be entitled by giving a written notice to the other parties to the deadlock or dispute ("mediation notice") within a period of seven days after the date upon which such deadlock or dispute arose, to require such deadlock or dispute to be resolved in accordance with the provisions of this 12.

12.3 Within a period of five days after receipt of a mediation notice, the parties to the deadlock or dispute ("mediation parties") shall meet at the offices of [ ] (or such other place as may be agreed to in writing) for purposes of attempting to resolve such deadlock or dispute. At such meeting, the mediation parties undertake to use their reasonable endeavours to resolve the deadlock or dispute.

12.4 If the mediators do not meet within the five day period referred to in 12.3 or if they do meet but are unable to resolve the deadlock ("unresolved deadlock") or dispute ("unresolved dispute") at the meeting or within such further period and at such further meetings as the mediation parties may agree in writing, then the mediation parties shall, unless they otherwise agree in writing, refer the unresolved deadlock or unresolved dispute for determination in accordance with the provisions of 13.

12.5 The parties record that it is their intention that all deadlocks and disputes be resolved by way of mediation in terms of this 12 and that
they shall use their reasonable endeavours to ensure that such
deadlocks or disputes are resolved in accordance with the provisions
of this 12.

12.6 The parties to the deadlock or dispute shall bear and pay all of the
costs, if any, in relation to the mediation in equal shares.

ARBITRATION

13.1 Subject to 12, should -

13.1.1 any unresolved dispute arise; or

13.1.2 any unresolved deadlock arise,

then such unresolved dispute or deadlock shall by giving
written notice to that effect to the other party be finally resolved
in accordance with the rules of AFSA by an arbitrator or
arbitrators appointed by AFSA. There shall be no right of
appeal as provided for in article 22 of the aforesaid rules.

13.2 Each party to this agreement -

13.2.1 expressly consents to any arbitration in terms of the aforesaid
rules being conducted as a matter of urgency; and

13.2.2 irrevocably authorises the other party to apply, on behalf of all
parties to such dispute, in writing, to the secretariat of AFSA in
terms of article 23(1) of the aforesaid rules for any such
arbitration to be conducted on an urgent basis.

13.3 The parties hereby irrevocably agree that the decision of the arbitrator
in the arbitration proceedings -

13.3.1 shall be final and binding on each of them;
13.3.2 shall be carried into effect without delay; and

13.3.3 at the election of any party to the dispute, be made an order of court.

13.4 Notwithstanding the foregoing, nothing in this clause shall be construed as precluding any party from applying to court for a temporary interdict or other relief of an urgent nature, pending the decision of the award of the arbitrator in terms of this 13.

13.5 The parties agree to keep the arbitration including the subject matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone except for purposes of an order to be made in terms of 13.3.3.

13.6 This 13 is severable from the rest of this agreement and shall, notwithstanding the termination of this agreement, remain in full force and effect.

GOVERNING LAW AND JURISDICTION

14.1 The whole of this agreement shall be governed by and construed in accordance with the laws of South Africa.

14.2 Without derogating from the parties' rights in terms of 13.1 and the other provisions of this agreement, which provide for the resolution of any dispute, the parties hereby consent to the non-exclusive jurisdiction of the High Court of South Africa (Witwatersrand Local Division).

DOMICILIUM AND NOTICES

15.1 The parties choose domicilium citandi et executandi (“domicilium”) for all purposes relating to this agreement, including the giving of any...
notice, the payment of any sum, the serving of any process, as
follows -

15.1.1 [ ] physical -

facsimile -

15.1.2 [ ] physical -

facsimile -

Either party shall be entitled from time to time, by giving written notice
to the other, to vary its physical domicilium to any other physical
address (not being a post office box or poste restante) within the
Republic of South Africa, to vary its facsimile domicilium to any other
facsimile number.

Any notice given or payment made by either party to the other
("addressee") which is -

15.3.1 delivered by hand between the hours of 09:00 and 17:00 on
any business day to the addressee's physical domicilium for
the time being shall be deemed to have been received by the
addressee at the time of delivery;

Any notice given by either party to the other which is successfully
transmitted by facsimile to the addressee's facsimile domicilium for
the time being shall be deemed (unless the contrary is proved by the
addressee) to have been received by the addressee on the day
immediately succeeding the date of successful transmission thereof.

15.5 This 15 shall not operate so as to invalidate the giving or receipt of
any written notice, which is actually received by the addressee other
than by a method referred to in this 15.

15.6 Any notice in terms of or in connection with this agreement shall be
valid and effective only if in writing and if received or deemed to be
received by the addressee.

SEVERABILITY

All provisions of this agreement are, notwithstanding the manner in which
they have been grouped together or linked grammatically, severable from
each other. Any provision of this agreement which is or becomes
unenforceable [in any jurisdiction in which it applies or in which its
enforcement is sought], whether due to voidness, invalidity, illegality,
unlawfulness or for any other reason whatever, shall, only to the extent that it
is so unenforceable, be treated as pro non scripto and the remaining
provisions of this agreement shall remain of full force and effect. The parties
declare that it is their intention that this agreement would be executed without
such unenforceable provision if they were aware of such unenforceability at
the time of execution hereof.

GENERAL

17.1 This agreement constitutes the sole record of the agreement between
the parties in relation to the subject matter hereof. Neither party shall
be bound by any express, tacit or implied term, representation,
warranty, promise or the like not recorded herein. This agreement
supersedes and replaces all prior commitments, undertakings or
representations, whether oral or written, between the parties in
respect of the subject matter hereof.
17.2 No addition to, variation, novation or agreed cancellation of any provision of this agreement shall be binding upon the parties unless reduced to writing and signed by or on behalf of the parties.

17.3 No indulgence or extension of time which either party may grant to the other shall constitute a waiver of or, whether by estoppel or otherwise, limit any of the existing or future rights of the grantor in terms hereof, save in the event and to the extent that the grantor has signed a written document expressly waiving or limiting such right.

17.4 Without prejudice to any other provision of this agreement, any successor-in-title, including any executor, heir, liquidator, judicial manager, curator or trustee, of either party shall be bound by this agreement.

17.5 The signature by either party of a counterpart of this agreement shall be as effective as if that party had signed the same document as the other party.

COSTS

The parties shall bear and pay their own costs relating to the negotiation, drafting, preparation and execution of this agreement.

Signed at on 2014 for [ ]

who warrants that he is duly authorised hereto
Signed at ______________ on __________ for [ __________ ]

DRAFT - NOT FOR SIGNATURE

who warrants that he is duly authorised hereto
ANNEXURE A

FACILITIES

[A DETAILED LIST OF THE SHARED FACILITIES SHOULD BE PROVIDED INCLUDING, BUT NOT LIMITED TO DIAGRAMS, FLOOR PLANS AND INVENTORIES OF FURNITURE AND EQUIPMENT]

[NOTE: THE PARTIES SHOULD TAKE CARE IN DETAILING WHO OWNS THE RESPECTIVE ASSETS]

FACILITIES SHOULD INCLUDE:

- RENTAL (ROOMS)
- SOFTWARE
- RATES, TELEPHONE AND LIGHTS AND WATER
- STATIONARY
ANNEXURE B

[A COPY OF THE LEASE AGREEMENT TO BE ATTACHED]
ANNEXURE C

FLOOR PLAN OF PROPERTY
ANNEXURE D

SERVICES

[A DETAILED LIST OF THE SHARED SERVICES SHOULD BE PROVIDED]

SERVICES SHOULD INCLUDE:

- RECEPTIONIST
- NURSES
- CLEANING SERVICES