

**SPARK FUNDING AGREEMENT  
(BILATERAL)**

This Agreement is made between \_\_\_\_\_ ("Host Organization") and Baycrest Centre for Geriatric Care, operating as the Centre for Aging and Brain Health Innovation ("CABHI"), each herein individually referred to as a "Party" and collectively the "Parties".

**WHEREAS** the Parties wish to engage in the project set out in the Project Charter;

**NOW THEREFORE**, in consideration of the mutual promises set forth in this Agreement, the Parties agree as follows:

1. **Definitions.** Capitalized terms used and not otherwise defined herein shall have the meanings attributed thereto in Schedule "A".
2. **General Terms.** The general terms that apply to and form part of this Agreement are attached as Schedule "B".
3. **Schedules.** The following schedules are attached to and form a part of this Agreement:

Schedule "A" - Definitions.

Schedule "B" - General Terms

Schedule "C" - Project Charter

Schedule "D"- Reports and Reporting Timelines

Schedule "E" – Confirmed Key Performance Indicators (KPIs)

Schedule "F" – Confirmed Detailed Budget

4. **Project.** The Project shall be performed in accordance with this Agreement, including the Schedules attached hereto.
5. **Term.** The term of this Agreement (the "Term") shall commence on the Start Date and continue until the end of the Project Duration Period (the "End Date").
6. **CABHI Right to Terminate.** All obligations of CABHI hereunder may be immediately suspended or terminated, in whole or in part, at any time by CABHI giving written notice to the Host Organization, where CABHI determines, in its sole and unfettered discretion, that:
  - a) the Project will likely not be completed on schedule or on budget;
  - b) interim results are unsatisfactory and demonstrate low likelihood of achieving anticipated outcomes;

- c) one or more Milestones cannot be met or has not been met within the timeframe set out in the Project Charter, including failing to obtain research ethics board approval or evidence of the non-applicability of such approval;
- d) the Host Organization has defaulted on its obligation to make any Contribution at the time and in the manner required under this Agreement; or
- e) the Host Organization has defaulted on any other of its obligations under this Agreement, including failing to provide the reporting and cooperation required under Section 8.

In the event (i) of a default by the Host Organization of its obligations under this Agreement, which default is not remedied within thirty (30) days following written notice from CABHI, or (ii) one or more Milestones cannot be met or has not been met within the timeframe set out in the Project Charter, CABHI shall, without limiting any other right or remedy it may have, have the right to withhold, delay or cease all or any part of further payments in respect of the Project, and/or recover any payments previously made by it to the Host Organization.

7. **Contributions and Eligible Expenses.** CABHI and the Host Organization shall make the Contributions toward the cost of the Project as set out in the Application and Project Charter (Schedule "C"). CABHI agrees to release 90% of its Cash Contribution within thirty (30) days following receipt of this Agreement signed by the Host Organization, along with any other materials CABHI indicates it requires prior to advancing such funds. The release of the remaining 10% of CABHI's Cash Contribution is subject to receipt of all reports referred to in Schedule "D", satisfactory to CABHI, as well as the Host Organization's ongoing compliance with all of its other obligations hereunder. Notwithstanding anything else in this Agreement, the Parties acknowledge and agree that all Contributions to be made by CABHI, and CABHI's obligations to pay such Contributions, are entirely conditional on CABHI receiving sufficient allocated government funding to enable it to make payment thereof, and that CABHI may terminate, suspend or revoke such obligations, in whole or in part, at any time by giving written notice to the Host Organization should it not receive or possess funds sufficient for such purposes. Further, CABHI shall have the right to retain or withhold any portion of Contributions otherwise payable pending receipt of interim or final deliverables and/or reports due in respect of the Project.

The Host Organization shall use the Contributions only in accordance with the Project Charter set out in Schedule "C", and the published CABHI expense guidelines which may be amended by CABHI from time to time. If Host Organization has not spent the entire CABHI Cash Contribution by the End Date, or has not legally committed itself to spend the entire CABHI Cash Contribution by the End Date, then Host Organization shall reimburse CABHI for the unspent/uncommitted portion of the Cash Contribution within 30 days following the End Date.

8. **Reviews, Reporting and Right to Disseminate.**

- a) The Host Organization shall provide to CABHI such reports with respect to the

- Project, its status, progress and projections, as required by CABHI, in such form and content and at such times as specified by CABHI in writing from time to time including, without limitation, the reports referred to in Schedule “D”, including a final report after Project completion, and annual surveys for a period of five 5 years following the term of this Agreement, and any other follow-up reporting reasonably required by CABHI following the Term of this Agreement.
- b) The Host Organization agrees to cooperate with CABHI in the collection of performance metrics relevant to the Project, which shall be used by CABHI to evaluate the success of its programs and shall be reported to the Government of Ontario and the Government of Canada in aggregate, omitting any Confidential Information.
  - c) CABHI shall have the right to make the results of the Project public, and to disseminate such results in a manner it determines appropriate. The Host Organization grants to CABHI a royalty free, perpetual, non-exclusive license to copy, reproduce, and distribute, in whole or in part, any reports, materials or surveys it delivers to CABHI under this Agreement or otherwise in connection with this Project. The Host Organization agrees to cooperate with CABHI and provide CABHI with reasonably necessary documents and participate in CABHI’s publicizing the results of the Project.
9. **Indemnity.** Subject to Section 10, each Party will indemnify, defend and save harmless the other Party including their respective officers, directors, employees, contractors, agents and students from and against any and all suits, claims, demands, costs, damages, expenses, losses or injuries (including death) to persons or property, caused by: (A) any default or breach by the indemnifying Party of any of its obligations under this Agreement; and (B) the willful or negligent act or omission of the indemnifying Party or its officers, directors, employees, contractors, agents and students during the performance or arising out of this Agreement or the Project.
10. **Limitation of Liability.** No Party shall be liable to the other Party for loss of business or profit or for any special, indirect, punitive or consequential loss or damage, regardless of whether such loss or damage arises under contract, tort, or based upon strict liability or other theory of law or equity, where such loss or damage arose in connection with the Project. In no event shall CABHI's liability for damages arising out of the Project or under this Agreement exceed the dollar value of the Contribution which CABHI is required hereunder to make to the Project. Except as expressly provided herein, CABHI, including its directors, trustees, officers, employees and agents, makes no representations, warranties, undertakings, promises, inducements or agreements of any kind, whether direct, indirect, express or implied, including, without limitation, the merchantability or fitness for a particular purpose of any research results or intellectual property; and except as expressly provided herein, CABHI assumes no responsibility whatsoever with respect to design, development, manufacture, use, sale or other disposition of research results or intellectual property by any Host Organization. .
11. **Intellectual Property (IP).** The Host Organization represents and warrants that it has the

right to use any and all of the Intellectual Property required for the Project, and to commercialize any Foreground IP arising from the Project. CABHI makes no claim to ownership over any Intellectual Property required for the Project, or any Foreground IP.

12. **Insurance.** The Host Organization shall obtain and maintain, at its own expense, comprehensive general liability insurance of not less than two million Canadian dollars (CAD \$2,000,000) written by responsible and recognized insurers qualified to do business in the jurisdiction(s) in which the Host Organization is located and shall name CABHI as an additional insured. Host Organization shall provide CABHI with a certificate of insurance as evidence of such coverage, if requested by CABHI. The insurance policy shall include a cross liability clause, contractual liability coverage and a 30 day written notice period for cancellation, termination or material change.
  
13. **Research Ethics Board.** If the Project involves human subjects, the Host Organization shall ensure that the research protocol is consistent with the principles set out in the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (“TCPS”) and is reviewed and approved by a research ethics board that adheres to the TCPS or other similar entity that is established to approve research based on ethical standards (the “REB”). Host Organization shall carry out the Project in accordance with the research protocol and the informed consent forms reviewed and approved by the REB and comply with any conditions imposed by the REB. Host Organization shall at minimum obtain annual review and approval by the REB until the Project is completed and seek review and approval by the REB prior to making any amendment or modification to the approved research protocol. Host Organization shall also retain a record of each REB approval, and provide CABHI with copies of such records upon request. If REB approval is not required for the Project, Host Organization shall obtain a letter from the REB indicating that approval is not required and provide a copy to CABHI.

IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**BAYCREST CENTRE FOR GERIATRIC  
CARE, operating as CENTRE FOR AGING  
AND BRAIN HEALTH INNOVATION**

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Name:

Title:

I have the authority to bind the Corporation.

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Name:  
Title:  
I have the authority to bind the Corporation.

**[Insert Legal Name of Host Organization]**

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Name:  
Title:  
I have the authority to bind the Corporation.

## **SCHEDULE “A” DEFINITIONS**

"**Agreement**" means the agreement to which this Schedule is attached and includes all schedules attached thereto, which Schedules form an integral part of this Agreement.

"**Cash Contribution**" refers to a direct payment of Contribution in Canadian currency.

"**Host Organization**" has the meaning given to this term on the first page of the main body of this Agreement.

"**Confidential Information**" means the confidential business or technical information of a Party that is identified in writing by that Party at the time of its disclosure or identified orally as such by that Party at the time of its disclosure and confirmed in writing within two weeks of the oral identification.

"**Contribution**" means Cash Contribution and/or In-Kind Contribution.

"**End Date**" has the meaning given to this term in Section 5 of the main body of this Agreement.

"**Fair Market Value**" means the fair market value that an unrelated arm's-length party would have paid in Canadian currency for an In-Kind Contribution as of the date such Contribution is made to the Project.

"**Foreground IP**" refers to any and all Intellectual Property that may be conceived, made, authored, reduced to practice or otherwise created during the course of the Project.

"**GAAP**" means generally accepted accounting principles for financial reporting in Canada as most recently recommended and approved by the Chartered Professional Accountants of Canada, or its successor, in its handbook.

"**In-Kind Contribution**" means an indirect Cash Contribution or a non-monetary contribution that reduces the cash requirement of the Project. The value of each In-Kind Contribution to the Project is assessed at Fair Market Value.

"**Intellectual Property**" means any new and useful art, invention, drawings, discovery, know-how, innovation, concept, methodology, model, procedure, technique and specification, product, formulae, software, manufacture or composition of matter, and any industrial and/or intellectual property rights and all other such rights whether or not statutorily protected or capable of being protected under statute.

"**Milestones**" means the objectives to be achieved during the course of, and upon completion of, the Project which are set out in the Project Charter.

"**CABHI**" has the meaning given to this term on page 1 of the main body of this Agreement.

"**Project**" means the project or initiative described in the Project Charter.

"**Project Charter**" means the document attached as Schedule "C".

**"Project Duration Period"** means the period of time approved by CABHI for the completion of the Project following the Start Date.

**"Schedules"** means the schedules identified in Section 3 of the main body of this Agreement attached to and/or delivered with this Agreement.

**"Start Date"** means the project activation date set by CABHI.

**"Term"** has the meaning given to this term in Section 5 of the main body of this Agreement.

**SCHEDULE “B”  
GENERAL TERMS**

1. **Obligations upon Termination.** Notwithstanding the termination or expiry of this Agreement, Sections 8, 9, 10 and 11 of the main body of this Agreement and these General Terms shall survive.
2. **Non Waiver.** Except as otherwise expressly provided herein, the failure of a Party to exercise its rights herein upon the occurrence of any breach by the other Party of its obligations will not in any event constitute a waiver of such rights.
3. **Assignment and Enurement.** This Agreement and all its rights and privileges hereunder may not be assigned by any Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, provided, however, that CABHI may assign this Agreement to a subsidiary or affiliate of CABHI upon written notice to the other Party. This Agreement and everything herein contained will inure to the benefit of and be binding upon each of the Parties hereto and upon their respective heirs, estate trustees, personal representatives, successors and permitted assigns.
4. **Choice of Law.** This Agreement will be governed by and construed in accordance with the laws in force in the Province of Ontario and the laws of Canada applicable therein, without recourse to their rules on conflicts of laws.
5. **Relationship.** The Parties' relationship under this Agreement is one of independent contractors and the Parties are not, will not be considered to be, and will not represent themselves to be, joint venturers, partners or agents of each other.
6. **Time of the Essence.** Time is of the essence of this Agreement and of each and every term and condition hereof.
7. **Entire Agreement.** This Agreement and the documents referenced herein constitutes the entire agreement between the Parties pertaining to the Project and the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions with respect to the subject matter hereof whether oral or written.
8. **Notice.** All notices hereunder shall be in writing and shall be duly given if delivered personally or sent by registered mail, return receipt requested, or e-mailed to the respective addresses of the Parties as follows:

to Centre for Aging and Brain Health Innovation  
3560 Bathurst Street  
Toronto, ON M6A 2E1  
Attention: Ryan Webster, Director Programs and Operations  
Tel: 416-785-2500 x6079  
E-mail:rwebster@baycrest.org



**to [Insert Legal Name of Host Organization]**  
**Address:**

**Attention:**  
**Tel:**  
**E-mail:**

Any notice given by registered mail shall be deemed to have been received by the parties to whom the same is addressed on the fifth (5th) business day following the day upon which such notice has been deposited in a post office with postage and cost of registration prepaid. Any notice delivered personally or given by e-mail shall be deemed to have been received by the Party to whom such notice is so delivered on the following business day.

9. **Confidentiality.** A Party may disclose Confidential Information to another Party to facilitate work under this Agreement. Each Party agrees that such information will be safeguarded and only disclosed to persons with a need to know it within the receiving Party. All Parties will take such steps as a reasonably prudent commercial enterprise would take to protect such information from disclosure to third parties not bound by relevant nondisclosure agreements. The obligation to keep Confidential Information confidential will not apply to information which:
- a) is already known at the time of disclosure to the Party to whom it is disclosed and that Party can prove by written records that it is already known;
  - b) is or becomes part of public domain without material breach of this Agreement by the Party seeking to rely on this exclusion;
  - c) is obtained from third parties which impose no related confidentiality obligations on the disclosing Party;
  - d) is authorized for release by the disclosing Party;
  - e) is required to be disclosed by law or order of a court, governmental tribunal or governmental agency or in the case of CABHI, by written agreement of CABHI with the Government of Ontario or Government of Canada (or any of its Ministries or representatives), but the Party subject to such requirement will promptly notify the disclosing Party and give the disclosing Party a reasonable opportunity to seek a confidentiality order or the like; or
  - f) is disclosed into the public domain through CABHI's dissemination rights.

These obligations of confidentiality and non-disclosure shall apply upon execution of this Agreement and continue for a period of seven (7) years following the end of the Project Duration Period except with respect to trade secrets and personal information which shall survive indefinitely unless and until the same fall under (b) or (e) above;

- 10. Communications.** Host Organization covenants and agrees to acknowledge CABHI's

contribution to the Project in all of its publications, communications, news releases and lectures that refer or relate to the Project.

11. **Force Majeure.** In the event that any Party is prevented or delayed from fulfilling any of its obligations herein by Acts of God, war, terrorism, strikes, riots, storms, fires, floods, epidemics, governmental orders or governmental restrictions, then that Party will be excused from such performance to the extent that it is necessarily prevented or delayed during the continuance of such happening or event, but financial payment obligations which have accrued prior to, or after, such cause will not be so excused. In the event of a force majeure lasting for thirty (30) days or more, the non-affected Party shall have the right to terminate this Agreement on notice to the other Party.
12. **Personal Information and Personal Health Information.** In the course of the Project, Host Organization may have access to, or may obtain, personal information, including personal health information. Host Organization agrees to comply with any applicable data privacy or data protection legislation regarding the collection, use and disclosure of any such information.
13. **Record Keeping and Audits.** Host Organization shall account for the Contributions and their use and shall keep good and valid records of such accounts in accordance with GAAP at all times. Host Organization shall make such records, including receipts for expenditure of the Contributions and all related books, payrolls, accounts, invoices, receipts and other vouchers, available, at all times upon reasonable notice, to CABHI, the governments of Ontario and Canada and their agents (including Auditors) for inspection, auditing and the making of copies thereof. Such records shall be maintained by Host Organization for a period of time no less than seven years beyond the Start Date.
14. **Other Organizations.** Host Institution may subcontract the performance of certain aspects of the Project to other healthcare or research organizations (each, a “Collaborating Organization”), provided that each Collaborating Organization agrees in writing with Host Organization to be bound by the provisions and obligations of this Agreement. Host Institution shall require each Collaborating Organization to provide such reports, use all funds received and otherwise to perform its duties in accordance with all terms of this Agreement. Host Institution shall remain responsible for any obligations, services and functions performed by its Collaborating Organization, and for purposes of this Agreement such work shall be deemed work performed by Host Institution. Host Institution shall be the sole point of contact for CABHI.
15. **Counterparts.** This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. For all purposes of this Agreement and all other documents contemplated hereby, the signature of any Party, evidenced by a telecopy showing such signature or other electronically transmitted version of such signature (including by way of PDF), shall constitute conclusive proof for all purposes of the signature of such Party to such document, to the same extent and in all respects as a copy of such document showing the original signature of such Party.

**Schedule “C”  
PROJECT CHARTER**

<b>A. PROJECT</b>		
1.	<b>Name of Project Lead at Host Institution</b>	<b>[COMMENTARY: Identify the individual at the Host Institution who is responsible for overseeing and coordinating the Project activities, including oversight and coordination of the other providers involved in the Project]</b>
2.	<b>Names of the Collaborating Organizations and their lead team members</b>	
3.	<b>Background and Context</b>	<b>[COMMENTARY: Host Institution to complete – 150 words or less]</b>
4.	<b>CABHI Project Lead</b>	
5.	<b>Description of Project</b>	
6.	<b>Approvals</b>	<b>[COMMENTARY: Describe compliance requirements and any regulatory or other approvals that are required before or during the implementation of the Project, as well as which Party is expected to obtain the approval.]</b>
7.	<b>Scope of Work of Host Institution</b>	<p>In addition to the responsibilities set out elsewhere in this Agreement, the scope of work of Host Institution with respect to the Project (the “<b>Scope of Work</b>”) is as follows:</p> <ul style="list-style-type: none"> <li>• Identify for CABHI those individuals at the Host Institution and each Collaborating Organization who will complete the Annual Surveys referred to in Section 16 of the Project Charter</li> <li>• Deliver to CABHI a Project risk assessment, in a form to be provided by CABHI, no later than ten (10) Business Days following the execution of this Agreement. The risk assessment must include the Collaborating Organizations.</li> <li>• Assuming all necessary pre-approvals have been received, Host Institution will commence providing the Project on &lt;insert date&gt; OR the Start Date.</li> <li>• [Add any additional responsibilities]</li> </ul>

		<b>COMMENTARY: Provide a detailed description of the responsibilities of Host Institution with respect to the implementation of the Project. The date for the Host Institution to begin the Project may be the same as the Start Date. If different, specify the start date for the Project here.]</b>															
8.	<b>Responsibilities of CABHI</b>	In addition to the responsibilities set out elsewhere in this Agreement, the responsibilities of CABHI with respect to the Project are: <ul style="list-style-type: none"> <li>•</li> </ul>															
9.	<b>Key Performance Indicators</b>	The attached Schedule E shall be completed by Host Institution and Collaborating Organizations															
<b>B. KEY DATES</b>																	
10.	<b>Start Date</b>																
11.	<b>End Date</b>																
12.	<b>Project Duration Period</b>																
13.	<b>Milestones</b>	<table border="1"> <thead> <tr> <th>Milestone</th> <th>Expected Completion Date</th> <th>Responsible Party(ies)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td></td> <td></td> </tr> <tr> <td>4.</td> <td></td> <td></td> </tr> </tbody> </table> <p><b>[COMMENTARY: The chart above is intended to capture the expected milestones and deliverables and their expected completion dates. The dates in this chart should be no earlier than the Start Date and no later than the End Date. This chart can also be used as the reference point if Contributions are to be staged by Milestone.]</b></p>	Milestone	Expected Completion Date	Responsible Party(ies)	1.			2.			3.			4.		
Milestone	Expected Completion Date	Responsible Party(ies)															
1.																	
2.																	
3.																	
4.																	
<b>C. FINANCIAL</b>																	
14.	<b>Confirmed Detailed Budget</b>	To be attached as Schedule F															
15.	<b>Contributions</b>	The Parties agree to make Contributions towards the Project as follows: <table border="1"> <thead> <tr> <th></th> <th>Cash Contribution</th> <th>In-Kind Contribution</th> </tr> </thead> <tbody> <tr> <td>CABHI</td> <td>\$</td> <td>N/A</td> </tr> </tbody> </table>		Cash Contribution	In-Kind Contribution	CABHI	\$	N/A									
	Cash Contribution	In-Kind Contribution															
CABHI	\$	N/A															

		Contribution		[COMMENTARY: This row is <u>only</u> intended to capture CABHI’s own Contribution (out of its own funds) to the Project.]
		Host Institution Contribution, if any	\$	1. <insert description of in-kind contribution (e.g. employee time for which the Host Institution is not seeking reimbursement)> Fair Market Value: <insert>  [Note if Host Institution is seeking reimbursement for the property or services it is providing for the Project, it should <u>not</u> be listed here, i.e. it is not a Contribution.]
		<b>Total Contributions</b> (include FMV of In-Kind Contributions)	\$	[COMMENTARY: The total value of Contributions must be equal to the total cost charged by Host Institution for performing the Project Work]
16.	<b>CABHI Payment Schedule (re Contributions Towards Cost of Project)</b>	Subject to the terms and conditions of this Agreement, CABHI agrees to pay Contributions to Host Institution in installments as follows (the “ <b>CABHI Payment Schedule</b> ”):		
		<b>Payments</b>	<b>Date / Milestone</b>	<b>Amount in CAD</b>
		Payment 1		\$
		Payment 2		\$
		Payment 3		\$
		TOTAL	—	\$  [COMMENTARY: This must equal the total cost of Project Work less the value of the Host Institution Contribution, if any]
<b>D. OTHER MATTERS</b>				

17.	<b>Additional Privacy Protections and Obligations, if any (Section 16 of the main body of this Agreement)</b>	
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**Schedule “D”  
REPORTS AND REPORTING TIMELINES**

<b>Report</b>	<b>Schedule</b>
Project Charter	Prior to the start of the project
Confirmation of quarterly KPIs applicable to the project (included as Schedule “E”)	Prior to the start of the project
Confirmation of annual KPIs applicable to the project (included as Schedule “E”)	Prior to the start of the project
Project Risk Assessment Form	Prior to the start of the project
Monthly Project Progress Calls with CABHI Lead	Monthly, due by the 10th of each month for the entire duration of the project
Quarterly KPIs Report	Quarterly, due by the 10th of the month after the end of the quarters (Jan-Mar, Apr-Jun, Jul-Sep, Oct-Dec)
Annual KPIs Report	Annually, due by the 10th of the month after the end of the fiscal year (March 31)
Interim Financial Report	Within 30 days following the end of every six month period after start of the project
Final Project Report including Financial Report	Within 30 days following the end of the project

**Schedule "E"**  
**CONFIRMED KPIs**



**Schedule "F"**  
**Confirmed Detailed Budget**