

0013012005  
700207179

Form PTO-1595 (Rev. 03/05)  
OMB No. 0881-0027 (exp. 6/30/2006)

U.S. DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

RECORDATION FORM COVER SHEET  
**PATENTS ONLY**

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)  
HY KRAMER

2. Name and address of receiving party(ies)  
Name: HEALING FEET, LLC

Internal Address: C/O MICHAEL SCHLANGER, ESQ.

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance/Execution Date(s):  
Execution Date(s): APRIL 21, 2005

Street Address: 1025 WESTCHESTER AVENUE

SUITE 108

City: WHITE PLAINS

State: NEW YORK

Country: WESTCHESTER Zip: 10604

- Assignment
- Security Agreement
- Joint Research Agreement
- Government Interest Assignment
- Executive Order 9424, Confirmatory License
- Other
- Merger
- Change of Name

Additional name(s) & address(es) attached?  Yes  No

4. Application or patent number(s):

A. Patent Application No.(s)

This document is being filed together with a new application.

B. Patent No.(s)  
6,233,767

Additional numbers attached?  Yes  No

5. Name and address to whom correspondence concerning document should be mailed:

Name: MICHAEL SCHLANGER, ESQ.

Internal Address:

Street Address: 1025 WESTCHESTER AVENUE, SUITE 108

City: WHITE PLAINS

State: NEW YORK

Zip: 10604

Phone Number: (914) 946-1991

Fax Number: (914) 946-7930

Email Address: MIKESCHLANGER@LAW.COM

6. Total number of applications and patents involved: ONE (1)

7. Total fee (37 CFR 1.21(h) & 3.41) \$46.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed
- None required (government interest not affecting fee)

8. Payment Information

a. Credit Card Last 4 Numbers 6609

Expiration Date JULY 2007

b. Deposit Account Number

Authorized User Name

9. Signature:

*Michael Schlinger*  
Signature

JULY 21, 2005  
Date

MICHAEL SCHLANGER, ESQ.  
Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 35

Documents to be recorded (including cover sheet) should be filed in (703) 295-2999, or mailed to:  
Mail Stop Assignment/Recordation Services, Director of the USPTO, P.O. Box 1489, Alexandria, VA 22304-1489

FROM : THANKS FOR CALLING

PHONE NO. : 17108282816 +

Nov. 22 2005 05:13PM PL

# ASSIGNMENT OF PATENT

Single Form (Form PTO/501) (2-97)  
Check Number (optional)

Whereas, I, HY KRAMER of 1417 BRADLEY AVE hereinafter  
referred to as patentee, did obtain a United States Patent for an improvement in FOOT WEAR

No. 5,233,747 dated \_\_\_\_\_; and whereas, I am now the sole  
owner of said patent, and  
Whereas, HOLLING FEEL, LLC

of 9 ALTHALANE, LACROIX, N.Y. 10558  
hereinafter referred to as "assignee" whose mailing address is

City of \_\_\_\_\_ and State of \_\_\_\_\_  
is desirous of acquiring the entire right, title and interest in the same;

Now, therefore, in consideration of the sum of \$10,000 dollars (\$ 10,000), the receipt whereof is  
acknowledged, and other good and valuable consideration, I, the patentee, by these presents do sell, assign and transfer  
unto said assignee the entire right, title and interest in and to the said Patent aforesaid; the same to be held and enjoyed  
by the said assignee for his own use and behoof, and for his legal representatives and assigns, to the full end of the term  
for which said Patent is granted, as fully and entirely as the same would have been held by me had this assignment and  
sale not been made, subject to the terms and conditions of the license agreement (2004)

Executed this 21 day of April, 2005

at 170 Liberty St, Ossining, New York 10521

State of New York  
County of Westchester

H Kramer  
HY KRAMER

Before me personally appeared said HY KRAMER  
and acknowledged the foregoing instrument to be his free act and deed this  
of April, 2005



**SHIRWOOD ALLEN SALMAN**  
Notary Public, State of New York  
No. 022A348600  
Qualified in New York County  
Commission Expires on 04-20-07

(Notary Public)

This form when a multiple or assignment form for an assignment document. This sample form is not an OMB officially approved form.

**OPERATING AGREEMENT  
OF  
HEALING FEET, LLC  
A NEW YORK LIMITED LIABILITY COMPANY**

This Operating Agreement effective as of this \_\_\_ day of February 2005, by, between and among JOSEF GELDWERT, residing at 9 Althea Lane, Larchmont, New York 10538-1001 ("Geldwert") and HY KRAMER, residing at 1457 Bassett Avenue, Bronx, New York 10461 ("Kramer"), confirms our understanding as to the matters contained herein.

The parties hereto agree as follows:

**ARTICLE I  
Definitions**

**SECTION 1.1.** As used herein, the following terms and phrases shall have the meanings indicated:

- A. "Act" shall mean the New York Limited Liability Company Act, as amended.
- B. "Capital Account" shall mean, with respect to each Member, the account established for each Member pursuant to Section 6.5, which will initially equal the Capital Contribution of such Member and will be (a) increased by the amount of Net Profits allocated to such Member and (b) reduced by the amount of Net Losses allocated to such Member and the amount of Cash Flow distributed to such Member. Members' Capital Accounts shall be determined and maintained in accordance with the rules of paragraph (b)(2)(iv) of Regulation Section 1.704-1 of the Code.
- C. "Capital Contributions" shall mean the fair market value of the amounts contributed by the Members pursuant to Section 6.1.
- D. "Cash Flow" shall have the meaning provided in Section 7.1.
- E. "Code" shall mean the Internal Revenue Code of 1986, as amended, or corresponding provisions of subsequent revenue laws.
- F. "Operating Managers" shall mean the Member or Members selected by

the Members in accordance with this Agreement to serve as Operating Manager or Operating Managers of the Company.

- G. "Members" shall mean the persons designated as such in this Agreement, any successor(s) to their interests as such in the Company; and any other person who pursuant to this Agreement shall become a Member, and any reference to a "Member" shall be to any one of the then Members.
- H. "Net Profits" and "Net Losses" shall mean the net profit or net loss, respectively, of the Company, determined in accordance with Section 8.1. 10.1
- I. The words "membership interest" shall mean a Member's interest in the Company which shall be in the proportion that the Member's share of the current profits of the Company bears to the aggregate shares of all the Members determined in accordance with Section 503 of the Act which states that profits and losses shall be allocated on the basis of the value of the contributions of each Member as stated in the Operating Agreement. A "majority in interest of the Members" and "two-thirds in interest of the Members" shall mean Members whose aggregate share of the current profits of the Company constitute more than one-half or two-thirds, respectively, of the aggregate shares of all the Members. A Membership Interest may be evidenced by a certificate issued by the Company. A Membership Interest may be expressed on a certificate as "Units" where a Member's Unit bears to the aggregate Membership Interests of all Members. A Member's Interest may be a certificated security or an uncertificated security within the meaning of Section 8-102 of the Uniform Commercial Code if the requirements of Section 8-103(c) are met, and if the requirements are not met such interest shall, for purposes of the uniform commercial code, be deemed to be a general intangible asset.
- J. "Company" shall mean this Limited Liability Company.
- K. "Person" shall mean any natural person, corporation, partnership, joint venture, association, limited liability company or other business or legal entity.

L. "Invention" shall mean the invention relating to Kramer prior to the date of incorporation of the Company and all proprietary rights therein or based thereon including but not limited to the patent granted to Kramer for said invention and more particularly described in detail in Schedule A (attached hereto and made a part hereof), and all improvements, enhancements and additions thereto and modifications and derivations thereof to date.

**ARTICLE II**  
**Organization of the Company**

SECTION 2.1. The purpose of the Company is to conduct any lawful business for which limited liability companies may be organized and to do all things necessary or useful in connection with the foregoing.

SECTION 2.2. The Company name shall be HEALING FEET, LLC. The Members shall be Members in the Company and shall continue to do business under the name until the Operating Managers shall change the name or the Company shall terminate.

SECTION 2.3. The principal address of the Company shall be c/o Josef Geldwert, D.P.M., 9 Althea Lane, Larchmont, New York, or such other place or places as the Operating Managers may determine. The Operating Managers will give notice to the Members promptly after any change in the location of the principal office of the Company.

SECTION 2.4. The Company shall be perpetual except that the Company may terminate as provided in this Agreement, or under applicable law.

**ARTICLE III**  
**Status of Members**

SECTION 3.1. No Member will be bound by, or be personally liable for the expenses, liabilities or obligations of the Company.

SECTION 3.2. No Member will be entitled to withdraw any part of his Capital Account or to receive any distributions from the Company except as expressly provided in this Agreement.

**SECTION 3.3.** No Member will have the right to require partition of the Property or to compel any sale or appraisal of the Company's assets or any sale of a deceased Member's interest in the Company's assets, notwithstanding any provisions of law to the contrary.

**ARTICLE IV**  
**Meeting of Members**

**SECTION 4.1.** An annual meeting of Members shall be held within five (5) months after the close of the fiscal year of the Company on such date and at the time and place (either within or without the State of its organization) as shall be fixed by the Members. At the annual meeting, the Members shall elect the Operating Managers and transact such other business as may properly be brought before the meeting.

**SECTION 4.2.** A special meeting of Members may be called at any time by the Operating Managers and shall be called by the Operating Managers at the request in writing of a majority in interest of the Members entitled to vote at such meeting. Any such request shall state the purpose or purposes of the proposed meeting. Business transacted at any special meeting of Members shall be confined to the purposes set forth in the notice thereof.

**SECTION 4.3.** Written notice of the time, place and purpose of every meeting of Members (and, if other than an annual meeting, the person or persons at whose discretion the meeting is being called), shall be given by the Operating Managers to each Member of record to vote at such meeting, not less than ten (10) nor more than sixty (60) days prior to the date set for the meeting. Notice shall be given either personally or by mailing said notice by first class mail to each Member at his address appearing on the record book of the Company or at such other address supplied by him in writing to the Operating Managers of the Company for the purpose of receiving notice.

A written waiver of notice setting forth the purposes of the meeting for which notice is waived, signed by the person or persons entitled to such notice, whether before or after the time of the meeting stated therein, shall be deemed equivalent to the giving of such notice. The attendance by a Member at a meeting either in person or by proxy without protesting the lack of notice thereof shall constitute a waiver of notice of such Member.

All notices given with respect to an original meeting shall extend to any and all adjournments thereof and such business as might have been transacted at the original meeting may be transacted at any adjournment thereof; no notice of any adjourned meeting need be given if an announcement of the time and place of the adjourned meeting is made at the original meeting.

**SECTION 4.4.** The holders of a majority in interest of the Members present in person or represented by proxy, shall be requisite and shall constitute a quorum at all meetings of Members except as otherwise provided by statute or the Articles of Organization. If, however, a quorum shall not be present or represented at any meeting of Members, the Members entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. When a quorum is once present to organize a meeting, such quorum is not deemed broken by the subsequent withdrawal of any Members.

**SECTION 4.5.** Every Member entitled to vote at any meeting shall be entitled to vote in accordance with his membership interest in the Company held by him of record on the date fixed as the record date for said meeting and may so vote in person or by proxy. Any Company action shall be authorized by a majority in interest of the votes cast by the Members entitled to vote thereon except as may otherwise be provided by statute, the Articles of Organization or this Operating Agreement.

**SECTION 4.6.** Every proxy must be signed by the Member entitled to vote or by his duly authorized attorney-in-fact and shall be valid only if filed with the Operating Managers of the Company prior to the commencement of voting on the matter in regard to which said proxy is to be voted. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless otherwise expressly provided in the proxy. Every proxy shall be revocable at the pleasure of the person executing it except as otherwise provided by statute. Unless the proxy by its terms provides for a specific revocation date and except as otherwise provided by statute, revocation of a proxy shall not be effective unless and until such revocation is executed in writing by the Member who executed such proxy and the revocation is filed with the Operating Managers of the Company prior to the voting of the proxy.





Company except as provided in this Agreement.

**SECTION 5.2.** The Operating Managers shall hold office for the term for which elected and until a successor has been elected and qualified. A vacancy in the office of Operating Manager arising from any cause may be filled for the unexpired portion of the term by the Members.

**SECTION 5.3.** Any Operating Manager may resign at any time by giving written notice to the Members. Any such resignation shall take effect at the time specified therein or, if the time is not specified therein, upon the receipt thereof, irrespective of whether any such resignations shall have been accepted.

**SECTION 5.4.** The Company shall be managed by the Operating Managers and the conduct of the Company's business shall be controlled and conducted solely and exclusively by the Operating Managers in accordance with this Agreement. In addition to and not in limitation of any right and powers conferred by law or other provisions of this Agreement, the Operating Managers shall have and may exercise on behalf of the Company all powers and rights necessary, proper, convenient or advisable to effectuate and carry out the purposes, business and objectives of the Company, and to maximize Company profits. Such powers shall include, without limitation, the following:

- A. To open accounts and deposit and maintain funds in the name of the Company in banks or savings and loan associations;
- B. To determine the appropriate accounting method or methods to be used by the Company;
- C. To commence lawsuits and other proceedings;
- D. To retain accountants, attorneys or other agents to act on behalf of the Company; and
- E. To execute, acknowledge and deliver any and all instruments to effectuate the foregoing, and to take all such action in connection therewith as the Operating Managers deem necessary or appropriate.

**SECTION 5.5.** Notwithstanding the foregoing, the Operating Managers may

not make any of the following management decisions without obtaining the unanimous consent of the Members:

- A. To acquire, sell, assign, or otherwise transfer any interest in any property;
- B. To create any indebtedness for borrowed money whether or not secured;
- C. To make, execute or deliver on behalf of the Company any assignment for the benefit of creditors or any guarantee, indemnity bond, or surety bond;
- D. To obligate the Company or any Member as a surety, guarantor or accommodation;
- E. To confess any judgment on behalf of the Company;
- F. To do any act which makes it impossible to carry on the ordinary business of the Company;
- G. To make any decision regarding any employee;
- H. To obligate the Company in any manner for a liability in excess of \$15,000; and
- I. All other management decisions.

SECTION 5.6. The Operating Managers shall serve as Tax Matters Members as such term is defined in Code section 6231(a)(7).

SECTION 5.7. Any person made or threatened to be made a party to an action or proceeding, whether civil or criminal, by reason of the fact that he, his testator or intestate, then, is, or was a manager, Member, employee or agent of the Company, or then serves or has served on behalf of the Company in any capacity at the request of the Company, shall be indemnified by the Company against reasonable expenses, judgments, fines and amounts actually and necessarily incurred in connection with the defense of such action or proceeding or in connection with an appeal therein, to the fullest extent permissible by the Act. Such right of

indemnification shall not be deemed exclusive of any other rights to which such person may be entitled.

## ARTICLE VI

### Capital

**SECTION 6.1.** *the Members have contributed to the Company in exchange for their membership interests, their interests, the cash and other property as set forth on Schedule A, annexed hereto.*

**SECTION 6.2.** *The fair market value and the adjusted basis of the contributing Member of any property other than cash contributed to the Company by a Member shall be set forth on Schedule A, annexed hereto.*

**SECTION 6.3.** *Except as expressly provided in this Agreement, no Member shall be required to make any additional contributions to the capital of the Company.*

**SECTION 6.4.** *No interest shall be paid on the Capital Account of any Member.*

**SECTION 6.5.** *A Capital Account shall be established for each Member on the books and records of the Company in accordance with section 1.1.B. If any assets of the Company are distributed to the Member in kind, the Capital Accounts of the Members shall be adjusted to reflect the difference between the fair market value of such assets on the date of distribution and the basis of the Company in such assets.*

**SECTION 6.6** *Geldwert shall contribute \$5,000 to the Company upon signing this agreement and up to an additional \$15,000 as needed; and thereafter, each of the two Members shall contribute up to \$5,000 as needed, on an equal basis and at the same time.*

**SECTION 6.7** *Kramer shall, simultaneously with the execution of this Agreement, assign to the Company his entire right, title and interest in and to the Invention and in and to all patents and other proprietary rights therein or based thereon, including but not limited to the Patent as defined, the Company to be responsible for maintaining the rights to the Patent. Notwithstanding anything contained herein to the contrary, this assignment shall revert back to Kramer if the Company's gross sales of the Company's Products, after returns and/or credits, does*

not exceed \$60,000 (US) for each two (2) year period beginning six (6) full calendar months after the execution of this Agreement; or Geldwert breaches any material term(s) of this Agreement which remains uncorrected after ten (10) days written notice of same is given to him as provided for herein; and in such event(s) the Company and/or Geldwert without cost to Kramer, shall sign all documents reasonably necessary to assign the Invention back to Kramer, together with all improvements and/or modifications made thereto between the date of this Agreement and the reassignment. To secure the assignment of the Patent back to Kramer, as provided for herein, the Company shall sign a reassignment of the Patent back to Kramer and same shall be held in escrow, pursuant to an escrow agreement in the form attached hereto as Exhibit 6.7.

**SECTION 6.8** "Gross Sales," for purposes of this Operating Agreement, shall mean all of the Company's gross receipts actually received by the Company for sales or promotions of the Company Products, as determined by the Company's accountants using general accepted accounting principles consistently applied with then present and past practices.

**SECTION 6.9** For purposes of this Operating Agreement, the Company's "Annual Gross Sales" shall mean all of the gross receipts actually received by the Company and all of its related entities for sales of its Product(s). Each "Annual" period shall be a consecutive twelve (12) month period, the first annual period to run from the first day of the seventh month after the full execution of this Agreement.

**SECTION 6.10** Kramer shall not be entitled to any royalties or payments in return for the assignment, the sole consideration for same being his fifty percent (50%) membership interest in the Company issued to him in consideration for his assignment of the Patent to the Company pursuant to this Agreement.

**ARTICLE VII**  
**Representations**

**SECTION 7.1** Kramer warrants and represents to the best of his knowledge and belief that he:

- A. Patent Number 5,233,767 (as described in Schedule B annexed hereto and hereinafter the "Patent") is in full force and effect;

- B. He is the sole, exclusive and present owner of all right, title and interest in the Invention including the Patent;
- C. He has not granted any licenses or rights in the Invention to any third party;
- D. To the best of his knowledge, he knows of no statutory bars or prior act which would prevent the Invention from being the subject of one or more United States Letters Patent and that the Patent does not infringe on any other parties' rights;
- E. He shall sign all documents and perform all acts necessary to assign the Patent to the Company subject to the terms of this Agreement; and to have the Company maintain, modify and/or amend the Patent; and
- F. He shall indemnify and hold the Company and Geldwert harmless against loss or damage arising from Kramer's breach of Section 7.1, paragraphs A-E above.

**SECTION 7.2** Kramer releases and discharges Geldwert from all actions, causes of action, suits, debts, dues, sums of money, accounts, covenants, contracts, controversies, agreements, promises, variance, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against him, Kramer, his successors and assigns ever had, now have or hereafter can, shall or may, have for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this release, arising from or relating to the use of the Patent prior to today in connection with the use of the Patent under the trademark/trade name "Pedology," relating to the manufacturing of an insole incorporating the Patent under the heel and forefoot and which was marketed and sold on television on the QVC shopping network.

**SECTION 7.3** Geldwert warrants and represents that he has not to this date, caused any infringement to the Patent; and shall indemnify and hold Kramer harmless against loss or damage arising from Geldwert's breach of Section 7.3.

**ARTICLE VIII**  
**Structure and Employment**

**SECTION 8.1** The Members shall irrevocably vote the Membership Interests to provide for the following:

- A. All checks issued by the Company shall be signed by both Members or if they both agree in writing, by any one of them.

**SECTION 8.2** Both Members are employed full time in other positions and agree that they shall nevertheless perform the following services as may be necessary, without compensation:

- A. Geldwert shall arrange for the Company to produce, and shall be in charge of, marketing the Products based upon the Invention; and shall be spokesperson for said products. This shall include Geldwert's developing and arranging for the development of the necessary components of the Company's Product, which shall incorporate the Invention; and
- B. Kramer shall assist in additional applications as needed, to modify, amend or improve the Patent at no cost or expense to Kramer, or defend infringement claims, as the case may be. In case of an infringement claim by a third party(ies) against the Patent, the Company shall initially pay all defense costs. In the event the infringement claim against the Company is successful and if it is determined in such a suit that Kramer willfully or knowingly infringed on the patent of a third party, he shall indemnify the Company against all costs and expenses incurred in the defense of such claim, and against all judgments or awards made against the Company.

**ARTICLE IX**  
**Distributions of Cash**

**SECTION 9.1.** The Company shall distribute to the Members from time to time all cash (regardless of the source thereof) of the Company which is not required for the operation or the reasonable working capital requirements of the Company which is not required for the operation or the reasonable working capital requirements of the Company (such cash is sometimes referred to herein as "Cash Flow"). For purposes of this Agreement all Cash Flow allocated to the Members shall be allocated among them in the ratio in which the total Capital Contributed by each Member



year. This Section is intended to comply with the minimum gain chargeback requirement of Reg. Sec. 1.704-2(f).

- B. Except as otherwise set forth in Reg. Sec. 1.704-2(i)(4), if there is a net decrease in a Member's nonrecourse liability minimum gain attributable to Members' nonrecourse liabilities during any fiscal year, each Member who has a share of the Member nonrecourse liability minimum gain attributable to Member nonrecourse liability shall be specially allocated items of gross income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to that Member's share of the net decrease in Members' nonrecourse debt minimum gain attributable to such Member nonrecourse debt. Allocations pursuant to this Section shall be made first from gain recognized from the disposition of Company assets subject to Member nonrecourse liabilities to the extent of Member minimum gain attributable to those assets, and thereafter, from a *pro rata* portion of the Company's other items of income and gain for the fiscal year. This section is intended to comply with the minimum gain chargeback requirements of Reg. Sec. 1.704-2(i).
- C. A Member who unexpectedly receives an adjustment, allocation or distribution described in (4), (5) or (6) of Reg. Sec. 1.704-1(b)(2)(ii)(d) will be distributed items of income and gain in an amount and manner sufficient to eliminate such deficit balance as quickly as possible. An allocation shall be made pursuant to this Section and if and to the extent a Member would have a deficit in his adjusted Capital Account after all other allocations provided for in this Section ~~and~~ were made as if this paragraph were not in the Agreement. *10.9 TMS*
- D. Nonrecourse deductions shall be allocated among the Members in the same proportion in which they share the Cash Flow of the Company.
- E. Any nonrecourse deduction shall be allocated to any Member who bears the economic risk of loss with respect to the Member nonrecourse liability to which such deduction is attributable.

**SECTION 10.4.** Any Company gain or loss realized with respect to property, other than money, contributed to the Company by a Member shall be shared among the Members pursuant to Code Section 704(c) and regulations to be promulgated



thereunder so as to take account of the difference between the Company basis and the fair market value of the property at the time of the contribution ("built-in gain or loss"). Such built-in gain or loss shall be allocated to the contributing Member upon the disposition of the property.

## ARTICLE XI

### Admission and Withdrawal of a Member

SECTION 11.1. A Member may transfer his interest in the Company to another person or entity only with the prior written consent of the other Member either in writing or at a meeting called for such purpose, which consent shall not be unreasonably withheld. If the other Member does not approve of the transfer, the transferee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee shall be entitled to receive the share of profits, losses and Cash Flow or other compensation by way of income and the return of contributions to which the transferor otherwise would be entitled.

SECTION 11.2. The Members agree to sign such additional documents as may be required in order to admit additional Members to the Company, pursuant to Section 9.1 as well as, among other things, to provide for the division of profits, losses and Cash Flow among the Members.

SECTION 11.3. All costs and expenses incurred by the Company in connection with the assignment of a Member's interest, including any filing fees and publishing costs and the fees and disbursements of counsel, shall be paid by the assigning Member.

SECTION 11.4. Each person who becomes a Member in the Company, by becoming a Member, shall and does hereby ratify and agree to be bound by the terms and conditions of this Agreement.

## ARTICLE XII

### Termination or Dissolution of Company

SECTION 12.1. The Company shall be terminated prior to the date of expiration of the term as provided in Section 2.4 if (a) Members unanimously consent that the Company should be terminated and dissolved, or (b) the Company is

dissolved pursuant to this Agreement.

SECTION 12.2. The Company shall be terminated in the event any Member (i) is expelled from the Company; (ii) makes an assignment for the benefit of creditors, is the subject of an order for relief under Title 11 of the United States Code, files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or regulation, files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature, seeks, consents to, or acquiesces in the appointment of a trustee, receiver or liquidator for, of all or any substantial part of his properties; or (iii) a judgment is entered by a court of competent jurisdiction adjudicating him incompetent to manage his person or his property.

SECTION 12.3. Upon the termination and dissolution of the Company, the then Operating Manager, or Operating Managers, if any, or, if there is no Operating Manager, any person elected to perform such liquidation by the written consent of the owners of all of the Members, shall proceed to the liquidation of the Company. The proceeds of such liquidation shall be applied and distributed as follows:

A. If any assets of the Company are to be distributed in kind, such assets shall be distributed on the basis of the fair market value thereof, and any Member entitled to any interest in such assets shall receive such interest therein as a tenant-in-common with all other Members so entitled. The fair market value of such assets shall be determined by an independent appraiser to be selected by the Company's independent public accountants. The amount by which the fair market value of any Property to be distributed in kind to the Members exceeds or is less than the basis of such Property, shall, to the extent not otherwise recognized by the Company, be taken into account in computing Net Profits or Net Losses (and shall be allocated among the Members in accordance with Section 10.2 ~~5.2~~) for purposes of crediting or charging the Capital Accounts of, and liquidating distributions to, the Members under Section 10.4B. 12.3B *me*

B. All distributions upon liquidation of the Company shall be distributed as follows: to each of the Members, in proportion to the amounts of their respective positive Capital Accounts, as such accounts have been adjusted (i) in accordance with Section 6.5 to reflect the Net Profit or Net

Loss realized or incurred upon the sale of the Company's property or assets and any deemed sale pursuant to Section 10.4A, (ii) in accordance with Section 8.2 to reflect all Net Profits or Net Losses with respect to the year of liquidation. No member shall be liable to repay the negative amount of his Capital Account. *12.3A*

**SECTION 12.4** Each of the Members shall be furnished with a statement, reviewed by the Company's independent public accountants, which shall set forth the assets and liabilities of the Company as of the date of the Company's liquidation. Upon completion of the liquidation, the Operating Manager shall execute and cause to be filed Articles of Dissolution of the Company and any and all other documents necessary with respect to termination of the Company.

**SECTION 12.5** Notwithstanding anything contained herein to the contrary, upon dissolution of the Company for any reason pursuant to this Agreement:

(a) all legitimate debts of the Company shall first be paid in full; and

(b) Kramer shall receive the Patent back by reassignment to him individually of all rights thereto; and

(c) simultaneously with the release of reassignment of the Patent from escrow (as provided for herein) to Kramer, Geldwert shall be entitled from the other assets of the company to repayment of all money he has invested in the Company, up to \$20,000; and

(d) Geldwert and Kramer shall share equally all remaining funds or other assets of the Company; and

(e) Geldwert, Kramer and the Company agree to sign all necessary documents to effectuate the reassignment of the Patent as provided for herein, and all other directives of this Article; and

**ARTICLE XIII**

Withdrawal, Death or Disability of a Member

**SECTION 13.1** If Geldwert voluntarily gives up his interest in the Company, or fails to comply with this Operating Agreement, all rights to the Patent shall revert

to Kramer; and Geldwert shall sign such further documents as may reasonably be necessary to effectuate this.

**SECTION 13.2** "Disability of a Member" shall mean that a Member cannot perform a majority of his duties herein for three (3) consecutive months. In such event, or in the event of the death of a Member, the surviving or non-disabled Member shall have the option to dissolve the Company and distribute one-half (1/2) the value of the Company, after expenses of the dissolution, to the disabled Member or his Estate, as the case may be. If the surviving or non-disabled Member chooses not to dissolve the Company, but continues the Company, he is obligated to pay the disabled Member or the Estate of the deceased Member one-half (1/2) of the fair market value of the Company as of the date of disability or death, as determined by mutual agreement between the disabled Member or the Estate of the deceased, and the survivor or non-disabled Member, or if no agreement can be reached within thirty (30) days, by arbitration as provided for herein. In both events, the value of the Company, including but not limited to the value of the Company's interest in and to the Patent, subject to the terms of all agreements between the Company and Kramer regarding same, shall be determined by mutual agreement between the parties, failing which the issue of the value of the Company's interest shall be submitted to arbitration as provided for herein.

**ARTICLE XIV**  
**Books and Reports**

**SECTION 14.1** The Operating Managers shall cause the Company to maintain the following records:

- A. Complete and accurate books of account, in which shall be entered, fully and accurately, each and every transaction of the Company, shall be kept by the Operating Managers at the principal office of the Company. The fiscal year of the Company shall be the calendar year. The books of account of the Company shall be kept by the Operating Managers at the principal office of the Company. The fiscal year of the Company shall be the calendar year. The books of account of the Company shall be kept in accordance with sound accounting practices and principles applied in a consistent manner by the Company; provided, however, that all methods of accounting and treating particular transactions shall be in accordance with the methods of accounting employed for Federal income

tax purposes. All determinations by the Operating Managers with respect to the treatment of any item or its allocation for Federal, state or local tax purposes shall be binding upon all the Members unless the determination is inconsistent with any express provision of this Agreement.

- B. A current list of the full name and last known mailing address of each Member set forth in alphabetical order together with the contribution and share in profits and losses of each Member; a copy of the Articles of Organization of the Limited Liability Company and any amendments thereto; a copy of the Limited Liability Company Operating Agreement and any amendments thereto; a copy of the Limited Liability Company's federal, state and local income tax returns for the three (3) most recent fiscal years.
- C. Any Member shall have the right from time to time at his expense to have his accountants and representatives examine and/or audit the books and records of the Company and the information referred to in this Section, and the Operating Managers will make such books and records and information available for such examinations and/or audits.

**SECTION 14.2.** No value shall be placed for any purpose upon the Company name or the right to its use, or upon the goodwill of the Company or its business. Upon termination or dissolution of the Company (without reconstitution thereof) as provided in this Agreement, neither the Company name or the right to its use, nor the goodwill of the Company, shall be considered as an asset of the Company.

**SECTION 14.3.** The Operating Managers will cause to be sent to the Members within a reasonable period after the close of each year the following: (a) annual statements of the Company's gross receipts and operating expenses, and the capital accounts of each Member, prepared by the Company's independent public accountants, to be transmitted to each Member; and (b) a report to be transmitted to each Member indicating the Member's share of the Company's profit or loss for that year and the Member's allocable share of all items of income, gain, loss, deduction, and credit, for Federal income tax purposes.

**ARTICLE XV**

Tax Elections

**SECTION 15.1.** In the event of a transfer of a Member's interest, or upon the death of a Member, or in the event of the distribution of Company property to any party hereto, the Company may (but need not necessarily) file an election, in accordance with Section 754 of the Code to cause the basis of the Company Property to be adjusted for Federal income tax purposes, as provided by Sections 734 and 743 of the Code.

ARTICLE XVI  
Miscellaneous

**SECTION 16.1.** Any notice or other communication under this Agreement shall be in writing and shall be considered given when mailed by registered or certified mail, return receipt requested, to the parties at the following addresses (or at such other address as a party shall have previously specified by notice to the others as the address to which notice shall be given to him):

- A. If to the Company, to it in care of the Operating Managers at the address of the Company.
- B. If to the Operating Managers, to them at the address of the Company.
- C. If to any Member, to him at his address set forth on the books and records of the Company.

**SECTION 16.2.** This Agreement contains a complete statement of all of the arrangements among the parties with respect to the Company and cannot be changed or terminated orally or in any manner other than by a written agreement executed by all of the Members. There are no representations, agreements, arrangements or understandings, oral or written, between or among the parties relating to the subject matter of this Agreement which are not fully expressed in this Agreement.

**SECTION 16.3.** This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted.

**SECTION 16.4.** This Agreement is intended to be performed in accordance

with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations of the jurisdiction in which the Company does most of its business. If any provision of this Agreement, or the application thereof to any person or circumstance, shall for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected, but rather shall be enforced to the extent permitted by law.

**SECTION 16.5.** Anything hereinbefore in this Agreement to the contrary notwithstanding, all references to the Property of the Company are deemed to include the profits, losses and Cash Flow of the Property.

**SECTION 16.6.** Irrespective of the place of execution or performance, this Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed in the State of New York.

**SECTION 16.7.** The captions, headings and table of contents in this Agreement are solely for convenience of references and shall not affect its interpretation.

**SECTION 16.8.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall be deemed to constitute a single document.

**SECTION 16.9.** Whenever the context so requires, the male gender when used herein shall be deemed to include the female gender, the female gender shall be deemed to include the male gender, the singular shall be deemed to include the plural and the plural shall be deemed to include the singular.

**SECTION 16.10 Arbitration.** Except as specifically provided for in the Escrow Agreement referred to in Section 6.7, any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof (including claims for tortious interference or other tortious or statutory claims arising before, during or after termination, providing only that such claim touches upon matters covered by this Agreement), shall be finally settled by arbitration administered by the American Arbitration Association ("AAA") pursuant to the Commercial Arbitration Rules in New York City as at present in force (except for Rules which are not adopted, and), subject to the following terms and conditions:

- A. Three (3) Arbitrators. The arbitration shall be conducted before a tribunal composed of three (3) arbitrators.
- B. Appointment of Party Arbitrator. Each party shall appoint an arbitrator, obtain its appointee's acceptance of such appointment, and deliver written notification of such appointment and acceptance to the other party within thirty (30) days after delivery of the Notice of Intention to Arbitrate.
- C. Appointment of Chairperson. The two (2) party appointed arbitrators shall jointly appoint the third arbitrator, obtain the appointee's acceptance of such appointment and notify the parties in writing of such appointment and acceptance within thirty (30) days after their appointment and acceptance.
- D. Failure to Agree Upon Chairperson. If both the appointment and acceptance of the third arbitrator are not effected within the thirty (30) day period, then upon the joint request of the parties or the request of either of them, the AAA shall appoint the third arbitrator, obtain acceptance of such appointment and notify the parties and both arbitrator in writing of such appointment and acceptance. The third arbitrator shall serve as the chairperson of the tribunal.
- E. Majority Vote. All decisions or rulings of the tribunal, as well as any interim or final award, shall be pursuant to the majority vote of the three (3) arbitrators comprising the tribunal.
- F. Vacancy. If at any time a vacancy occurs on the tribunal of an arbitrator, the vacancy shall be filled in the same manner and subject to the same requirements as are provided for the original appointment to that position. If the vacancy is not filled within thirty (30) days after its occurrence, either party may request the AAA to make the appointment and obtain acceptance. Upon the filling of a vacancy, and after allowing the newly appointed arbitrator sufficient time to familiarize himself or herself with the submissions and proceedings, the proceedings shall be continued without rehearing from the point at which the vacancy occurred, unless the parties agree otherwise or the Chairperson directs otherwise.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.



---

Josef Goldwert, D.P.M.

---

Hy Kramer

to that position. If the vacancy is not filled within thirty (30) days after its occurrence, either party may request the AAA to make the appointment and obtain acceptance. Upon the filling of a vacancy, and after allowing the newly appointed arbitrator sufficient time to familiarize himself or herself with the submissions and proceedings, the proceedings shall be continued without rehearing from the point at which the vacancy occurred, unless the parties agree otherwise or the Chairperson directs otherwise.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

Josef Geldwert, D.P.M.



Hy Kramer

**SCHEDULE A**

In exchange for his membership interest, Geldwert shall contribute \$5,000 to the Company as his capital; and agrees to contribute an additional \$15,000, as needed and as determined by the unanimous vote of the Operating Managers.

In exchange for his membership interest, simultaneously with the signing of this Agreement, Kramer shall assign the Invention and Patent to the Company, subject to the terms and conditions of this Agreement. The fair market value of the Invention and Patent at the time of assignment to the Company, shall be \$20,000.

Subsequently, as the Operating Members shall determine and in accordance with this agreement, they shall each contribute up to an additional \$5,000 to the Company, on an equal basis and at the same time.

**SCHEDULE B**

The Invention consists of:

"A midsole, partial midsole, or the like, for inclusion in an article of footwear having a flexible, air-permeable top sole, characterized by at least one plug in the heel region having a thickness (height) sufficient to permit compression of deformation along its thickness dimension accompanied by simultaneous significant bulging deformation in its circumscribing surface perpendicular to the thickness dimension; the deformations occurring solely due to normal walking activity by any wearer of the footwear, and the deformations thereby providing simultaneously for shock-absorption and ventilation during said normal walking activity;" and

evidence of it having been duly patented by the U.S. Patent Office under Patent Number 5,233,767.

# ASSIGNMENT OF PATENT

Sample Form (Form PTO/SB/11/05-1)  
DocId: 31111105-1

Whereas, I, HY KRAMER of 1457 BANCROFT AVE, hereinafter referred to as patentee, did obtain a United States Patent for an improvement in FOOT CARE

No. 5,233,767, issued \_\_\_\_\_; and whereas, I am now the sole owner of said patent, and

whereas HEALING FEET, LLC of 9 ALTHA LANE, LARCHMONT, N.Y. 10588

hereinafter referred to as "assignee" whose mailing address is

City of \_\_\_\_\_, and State of \_\_\_\_\_ is desirous of acquiring the entire right, title and interest in the same;

Now, therefore, in consideration of the sum of \$20,000 dollars (20,000), the receipt whereof is acknowledged, and other good and valuable consideration, I, the patentee, by these presents do sell, assign and transfer unto said assignee the entire right, title and interest in and to the said Patent aforesaid; the same to be held and enjoyed by the said assignee for his own use and benefit, and for his legal representatives and assigns, to the full end of the term for which said Patent is granted, as fully and entirely as the same would have been held by me had this assignment and sale not been made, add that to the terms just preceding agreement (in 4)

Executed this 21 day of April 2005

at the County of Queens, New York

State of New York  
County of Queens

Hy Kramer  
HE KRAMER

Before me personally appeared said Hy Kramer and acknowledged the foregoing instrument to be his free act and deed this 21 day of April 2005



**SPENCER ALLEN SALVAN**  
Notary Public, State of New York  
Qualified in New York County  
Commission Expires on 2/28/07

(Notary Public)

This form shows a sample of suggested format for an assignment document. This sample form is not an OMB officially approved form.

## ESCROW AGREEMENT

We, the undersigned parties, hereby acknowledge that there has been deposited with Michael Schlanger, Esq. ("MS" or "Escrow Agent"), with offices at 1025 Westchester Avenue, Suite 108, White Plains, New York 10604, by Healing Feet, LLC (the "LLC") a reversionary assignment of patent #5,233,767 back to Hy Kramer ("Kramer") (hereinafter referred to as the "Escrow Deposit"), which shall be in escrow under the following instructions (the "Escrow Agreement"):

### INSTRUCTIONS

The Escrow Deposit shall be distributed in accordance with the Operating Agreement of the LLC dated June \_\_, 2005 (the "Operating Agreement") and entered into by Kramer and Josef Geldwert ("Geldwert"), annexed hereto. However, the following terms, exceptions, provisions and conditions are acceptable to, and approved by, all of the parties signing these instructions:

1. Prior to the expiration of this agreement and upon receipt of a certified letter from Kramer, with a copy to the Escrow Agent and Geldwert, Kenneth Schmelkin or a member of his firm ("Schmelkin") shall prepare an accounting of the gross sales of the LLC for the period(s) set forth in ¶6.7 of the Operating Agreement, using generally accepted accounting principles ("GAAP"), applied on a basis consistent with the present and past practices of the LLC but subject to the terms and

conditions of Article VII of the Operating Agreement; and shall deliver same, together with the underlying work sheet(s) showing the basis for his (its) computation (the "Initial Computation"), to the LLC, Geldwert and Kramer in the manner provided for herein.

2. Geldwert shall then have twenty (20) days after receipt of the Initial Computation from Schmelkin to object to the Initial Computation, by written notice to Schmelkin and Kramer, together with the reasons and/or documents which support his objections ("Geldwert's Objections").

3. Schmelkin shall review Geldwert's Objections and issue his final computation within fifteen (15) days after receipt thereof, by delivering same to Kramer, the LLC, Geldwert and the Escrow Agent ("Final Accounting") as provided for herein.

4. Within forty-five (45) days of his receipt of the Final Accounting, the Escrow Agent shall deliver the Escrow Deposit to Kramer if the Final Accounting determines the gross sales of the LLC do not exceed the minimum called for in ¶6.7 of the Operating Agreement, unless Geldwert, within that time, commences an action in a court having jurisdiction of the parties to object to the Final Accounting, obtains interim injunctive-type relief staying the delivery of the Escrow Deposit to Kramer, and gives notice thereof to Kramer, the Escrow Agent and the LLC.

5. For purposes of this Escrow Agreement, the parties agree to accept the Final Accounting as final and binding subject to all rights a party would have to object to the Final Accounting in court, as if it were an arbitration award under the applicable law of the State of New York, including to, but not limited to that the Final Accounting:

- A. was rendered in manifest disregard to the law;
- B. failed to consider demonstrably relevant evidence;
- C. exceeded the power and scope of the determination provided to be made by Schmelkin herein;
- D. violated public policy;
- E. was rendered by misconduct, fraud or partiality of Schmelkin; or
- F. should not be honored on any other grounds that might be applicable under CPLR §7511.

6. The Escrow Agent shall be responsible as a depository only of the Escrow Deposit, and shall not be responsible for the sufficiency or accuracy of the form, execution or validity of documents deposited hereunder, or any description of property or other thing(s) therein, nor shall the Escrow Agent, where acting reasonably, be liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any such document or paper.



7. The Escrow Agent, as part of the consideration for the acceptance of this escrow, shall not be liable for any acts or omissions done in good faith, nor for any claims, demands or losses, nor for any damages made or suffered by any party to this escrow, excepting such as may arise through or be caused by its willful or gross negligence.

8. In accepting any documents delivered, including the Escrow Deposit, the Escrow Agent will not be called upon to construe any contract or instrument deposited and except as specifically provided for herein, shall be required to act in respect to the Escrow Deposit only upon the receipt of joint written instructions of the parties hereto.

9. This Escrow Deposit shall expire at the later of two (2) years from six (6) months of the execution of the aforementioned Operating Agreement or any extensions thereof, in writing signed by Kramer, Geldwert and the LLC. At such time, MS shall return the Escrow Deposit to the LLC, it shall become null and void, and that redelivery of such documents shall relieve MS from any further liability with reference thereto.

10. For all purposes of this agreement, notice to the parties shall be by personal delivery or facsimile transmission to each of them at the following addresses:

If to Healing Feet, LLC:

c/o Hy Kramer at the address listed below; and

c/o Josef Geldwert, M.D. at the address  
listed below

If to Kramer:

Mr. Hy Kramer

c/o John Woluewich, Esq.  
Law Office of Joseph M. DeGuardia  
991 Morris Park Avenue  
Bronx, New York 10462  
Fax: (718) 823-6330

If to Geldwert:

Josef Geldwert, M.D.  
9 Althea Lane  
Larchmont, New York 10538  
Fax: (914) 833-9325  
Copy to Michael Schlanger at address  
below

If to Escrow Agent:

Michael Schlanger, Esq.  
1025 Westchester Avenue, Suite 108  
White Plains, New York 10604  
Fax: (914) 946-2930

11. These instructions supercede any other contract with reference to this  
escrow deposit insofar as MS is concerned and that MS may rely absolutely hereon  
to the exclusion of any and all other agreements between the parties hereto.

HEALING FEET, LLC

\_\_\_\_\_  
HY KRAMER

by: \_\_\_\_\_  
HY KRAMER

HEALING FEET, LLC

\_\_\_\_\_  
JOSEF GELDWERT, M.D.

by: \_\_\_\_\_  
JOSEF GELDWERT, M.D.

ESCROW AGENT:

\_\_\_\_\_  
MICHAEL SCHLANGER

**ESCROW AGREEMENT**

We, the undersigned parties, hereby acknowledge that there has been deposited with Michael Schlanger, Esq. ("MS" or "Escrow Agent"), with offices at 1025 Westchester Avenue, Suite 108, White Plains, New York 10604, by Healing Feet, LLC (the "LLC") a reversionary assignment of patent #5,233,767 back to Hy Kramer ("Kramer" ) (hereinafter referred to as the "Escrow Deposit"), which shall be in escrow under the following instructions (the "Escrow Agreement"):

**INSTRUCTIONS**

The Escrow Deposit shall be distributed in accordance with the Operating Agreement of the LLC dated ~~July 5~~ <sup>July 5</sup>, 2005 (the "Operating Agreement") and entered into by Kramer and Josef Geldwert ("Geldwert"), annexed hereto. However, the following terms, exceptions, provisions and conditions are acceptable to, and approved by, all of the parties signing these instructions:

1. Prior to the expiration of this agreement and upon receipt of a certified letter from Kramer, with a copy to the Escrow Agent and Geldwert, Kenneth Schmelkin or a member of his firm ("Schmelkin") shall prepare an accounting of the gross sales of the LLC for the period(s) set forth in ¶6.7 of the Operating Agreement, using generally accepted accounting principles ("GAAP"), applied on a basis consistent with the present and past practices of the LLC but subject to the terms and

\*: C:\Documents and Settings\jgoldw\My Documents\Clients\Geldwert\Healing Feet LLC\Escrow Agreement 11.docx\wpd

conditions of Article VII of the Operating Agreement; and shall deliver same, together with the underlying work sheet(s) showing the basis for his (its) computation (the "Initial Computation"), to the LLC, Geldwert and Kramer in the manner provided for herein.

2. Geldwert shall then have twenty (20) days after receipt of the Initial Computation from Schmelkin to object to the Initial Computation, by written notice to Schmelkin and Kramer, together with the reasons and/or documents which support his objections ("Geldwert's Objections").

3. Schmelkin shall review Geldwert's Objections and issue his final computation within fifteen (15) days after receipt thereof, by delivering same to Kramer, the LLC, Geldwert and the Escrow Agent ("Final Accounting") as provided for herein.

4. Within forty-five (45) days of his receipt of the Final Accounting, the Escrow Agent shall deliver the Escrow Deposit to Kramer if the Final Accounting determines the gross sales of the LLC do not exceed the minimum called for in ¶6.7 of the Operating Agreement, unless Geldwert, within that time, commences an action in a court having jurisdiction of the parties to object to the Final Accounting, obtains interim injunctive-type relief staying the delivery of the Escrow Deposit to Kramer, and gives notice thereof to Kramer, the Escrow Agent and the LLC.

5. For purposes of this Escrow Agreement, the parties agree to accept the Final Accounting as final and binding subject to all rights a party would have to object to the Final Accounting in court, as if it were an arbitration award under the applicable law of the State of New York, including to, but not limited to that the Final Accounting:

- A. was rendered in manifest disregard to the law;
- B. failed to consider demonstrably relevant evidence;
- C. exceeded the power and scope of the determination provided to be made by Schmelkin herein;
- D. violated public policy;
- E. was rendered by misconduct, fraud or partiality of Schmelkin; or
- F. should not be honored on any other grounds that might be applicable under CPLR §7511.

6. The Escrow Agent shall be responsible as a depository only of the Escrow Deposit, and shall not be responsible for the sufficiency or accuracy of the form, execution or validity of documents deposited hereunder, or any description of property or other thing(s) therein, nor shall the Escrow Agent, where acting reasonably, be liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any such document or paper.

7. The Escrow Agent, as part of the consideration for the acceptance of this escrow, shall not be liable for any acts or omissions done in good faith, nor for any claims, demands or losses, nor for any damages made or suffered by any party to this escrow, excepting such as may arise through or be caused by its willful or gross negligence.

8. In accepting any documents delivered, including the Escrow Deposit, the Escrow Agent will not be called upon to construe any contract or instrument deposited and except as specifically provided for herein, shall be required to act in respect to the Escrow Deposit only upon the receipt of joint written instructions of the parties hereto.

9. This Escrow Deposit shall expire at the later of two (2) years from six (6) months of the execution of the aforementioned Operating Agreement or any extensions thereof, in writing signed by Kramer, Geldwert and the LLC. At such time, MS shall return the Escrow Deposit to the LLC, it shall become null and void, and that redelivery of such documents shall relieve MS from any further liability with reference thereto.

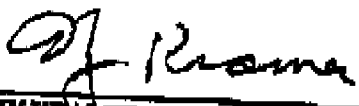
10. For all purposes of this agreement, notice to the parties shall be by personal delivery or facsimile transmission to each of them at the following addresses:

If to Healing Feet, LLC: c/o Hy Kramer at the address listed below;  
and

c/o Josef Geldwert, M.D. at the address  
listed below



11. These instructions supercede any other contract with reference to this escrow deposit insofar as MS is concerned and that MS may rely absolutely hereon to the exclusion of any and all other agreements between the parties hereto.

  
\_\_\_\_\_  
HY KRAMER

HEALING FEET, LLC  
by:   
HY KRAMER

\_\_\_\_\_  
JOSEF GELDWERT, M.D.  
ESCROW AGENT:  
MICHAEL SCHLANGER

HEALING FEET, LLC  
by: JOSEF GELDWERT, M.D.