

SERVICE PROVIDER AGREEMENT (“AGREEMENT”)

Between

CENTRE FOR ADDICTION AND MENTAL HEALTH IN RESPECT OF ITS DRUG AND ALCOHOL TREATMENT
INFORMATION SYSTEM PROGRAM (“CAMH”)

-and-

THE HARM REDUCTION HEALTH SERVICES PROVIDERS WHO ENTER INTO AN ADHESION
AGREEMENT (individually, an “HR HSP” and collectively, “HR HSPs”)

Dated as of the 12 day of March, 2019 (“Effective Date”)

BACKGROUND

- A. CAMH responded to, and was successful in its bid for, an invitation for proposals sent by the Ministry of Health and Long Term Care (“MOHLTC”) to develop, implement and support an application for use by the Province’s thirty-six Public Health Units (“PHUs”) and affiliated HR HSPs.
- B. Harm reduction reduces the adverse health, social and economic consequences of the use of legal and illegal psychoactive drugs (www.canadianharmreduction.com), and reduces harms associated with drug use, without requiring cessation. The MOHLTC currently supports harm reduction through programs such as needle exchange/syringe programs, injection drug use outreach workers, hepatitis C outreach workers, distribution of naloxone (an opioid antagonist that can temporarily reverse an overdose), and other harm reduction (safer injection and inhalation) equipment. These services are typically provided directly to persons who use drugs by public health units, AIDS service organizations, hepatitis C programs, and other community partners.
- C. Through funding from MOHLTC, CAMH has implemented and maintains the Ontario Harm Reduction Database (the “Database”) for adoption and use by the Province’s Needle Exchange/Syringe Programs, Hepatitis C Programs, and Injection Drug Use (IDU) Outreach Programs.
- D. CAMH has developed comprehensive reporting and analytical tools for use by PHUs, HR HSPs, and the MOHLTC for use in planning, policy, quality improvement and funding accountability, as accessed through the Database.
- E. The HR HSPs will use the Database to record services provided and harm reduction equipment distributed to people who use drugs, and manage operational activities supporting harm reduction service (“Supply Management”). The data generated by the system will be used to

create information and reports to help the PHUs, HR HSPs and MOHLTC obtain more timely data about these services to support program implementation (“**Reports**”). The Database will help HR HSPs streamline their reporting and meet their accountability and reporting requirements. Finally, the use of the electronic Database will also increase the MOHLTC’s ability to monitor service-need trends, as well as provide a tool for efficient and standardized data collection.

- F. In accordance with the agreement entered into with the MOHLTC, CAMH has entered into an agreement with NEO360 for the license of a comprehensive harm reduction service software solution (i.e. The Ontario Harm Reduction Database), to be hosted by CAMH for use by the HR HSP’s for the supply management and reporting obligations described herein.
- G. CAMH will act as the service provider to the PHU’s and HR HSP’s with respect to their use of the Database and will provide certain training services, as further described below.

NOW THEREFORE in consideration of the mutual promises hereinafter set out, the mutual benefit to be derived from the enhancement of standardized data collection and reporting, and other considerations (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows:

SECTION 1. DEFINITIONS/SCHEDULES

- 1.1 In addition to terms defined in this Agreement, the following capitalized terms shall have the following meanings:
- (a) “**Adhesion Agreement**” means the agreement signed by a HR HSP as set out in Schedule D, agreeing to be bound by the provisions of the Agreement and becoming a Party to this Agreement.
 - (b) “**Agreement**” means this Agreement dated as of March 12, 2019 among CAMH and the HR HSPs.
 - (c) “**Client**” is any client/service user of an HR HSP whose Client/Service Information is part of the Data.
 - (d) “**Client Service Information**” means, in reference to a client/service user of an HR HSP, the information about the client/service user and the Harm Reduction Services they accessed that the HR HSP collects.
 - (e) “**Confidential Business Information**” means all information and data, in whatever media or form, that is directly or indirectly disclosed to a Party under this Agreement, including but not limited to financial information, trade secrets, intellectual property, provided the information is either not generally known by or available to the public or marked “private”, “proprietary”, “restricted”, “confidential” or otherwise marked so as to indicate confidentiality, but which excludes information that: (i) is documented as already being in its possession without burden of confidentiality; (ii) is or becomes

publicly available through no fault of a non-disclosing Party; or (iii) is disclosed pursuant to the lawful requirement of a court or government agency of competent jurisdiction without condition of confidentiality, provided that the disclosing Party is notified in advance and given the opportunity to seek a protective order against such disclosure.

- (f) **“Data”** means the Client Service Information that is stored in the Database. As of the Effective Date, the elements of the Client Service Information that shall make up the Data are set out in Schedule B. Additional elements of Client Service Information will be included as part of the minimum dataset (and/or optional fields) to the Database to form part of the Data upon direction from the Harm Reduction Steering Committee and/or to reflect revised reporting requirements for the MOHLTC, and Schedule B will be deemed to be amended accordingly.
- (g) **“De-identify”** means, in relation to the PHI or PI of an individual, to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual, and **“De-identified”** and **“De-identification”** have corresponding meanings.
- (h) **“Effective Date”** means March 12, 2019, or the date that a HR HSP signs onto the Adhesion Agreement, or such other date as the Parties shall agree to.
- (i) **“Harm Reduction Database Initiative”** means the Harm Reduction Database Initiative being undertaken by MOHLTC, CAMH, PHU’s and HR HSP’s in the Province of Ontario, to work towards a robust level of data quality and reporting.
- (j) **“Harm Reduction Steering Committee”** means the group that is guiding the development of the Ontario Harm Reduction Database.
- (k) **“HR HSPs”** means the harm reduction health service providers who have signed the Adhesion Agreement and includes New HR HSPs. For greater certainty, a PHU may be an HR HSP.
- (l) **“Neo360”** means the organization that has licensed the software solution that is to be used by CAMH and ultimately by HR HSPs for the Ontario Harm Reduction Database.
- (m) **“New HR HSP”** means a harm reduction health services provider in the Province and funded to provide harm reduction services and that signs the Adhesion Agreement after the Effective Date of the Agreement.
- (n) **“Party”** means each of CAMH and the HR HSPs, and **“Parties”** means all of, CAMH and the HR HSPs.
- (o) **“Personal Information” or “PI”** has the same definition as in the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c. F31), and includes Personal Health Information (PHI).

- (p) **“Personal Health Information”** or **“PHI”** has the meaning set out in PHIPA and includes PHI that forms part of the Data.
- (q) **“Personnel”** means any employees, peers/volunteers that help deliver harm reduction services, agents, officers, directors, independent contractors, sub-contractors and others for whom a Party is responsible at law.
- (r) **“PHIPA”** means the *Personal Health Information Protection Act, 2004* and regulations thereunder.
- (s) **“Services”** means the electronic services provided by CAMH to the Parties pursuant to this Agreement, as specified in sub-section 4.1.

1.2 **Schedules.** The Schedules to this Agreement form part of this Agreement and are as follows:

Schedule A - Contact Information for CAMH and HR HSPs

Schedule B - List of Data Elements

Schedule C - Adhesion Agreement

Schedule D - Minimum Technical, Physical and Administrative Safeguards

Schedule E - Authorized User Terms of Use

Schedule F – Reports from the Ontario Harm Reduction Database

SECTION 2. PURPOSE

- 2.1 The HR HSPs, through their use of the Database, will provide to CAMH, in its capacity as Services Provider, information and data about Clients and the services they access through the provincial (MOHLTC) harm reduction programs. The Database will allow HR HSPs and the MOHLTC to obtain more timely data about harm reduction services to support program implementation as well as provide a tool for efficient and standardized data collection. The Database will also facilitate easier reporting to the MOHLTC by HR HSPs. The information will be used in service planning at the agency, regional, and provincial levels. It is intended that no PHI or PI will be shared among HR HSPs or with CAMH in connection with the Database.
- 2.2 The purpose of this Agreement is to outline the roles, responsibilities and rights of each HR HSP with respect to the Data and the roles and responsibilities of CAMH as the Services Provider.

SECTION 3. FLOW OF DATA

- 3.1 Each HR HSP shall provide certain Data concerning services delivered to clients who access, participate in, and/or are reached through the provincial harm reduction programs, including Needle Exchange/Syringe Programs (including their respective satellite/mobile needle exchange sites), Hepatitis C Programs, and Injection Drug Use Outreach Programs, as further set out in Schedule B or as otherwise required by the Harm Reduction Steering Committee, acting reasonably.

- 3.2 CAMH will provide regular reports to HR HSPs and the MOHLTC as further described in SECTION 6. Any additional reports will be at the request of MOHLTC.
- 3.3 Each HR HSP shall be able to access their Data through a user-based web portal accessible to users from any location with internet access. HR HSPs will be able to make queries (about only their own Data) through the portal.
- 3.4 The Database will also allow for certain coordination of supplies by the Ontario Harm Reduction Distribution Program, a centralized inventory management system, who will have access to the database to enable a more efficient order management process for harm reduction products.
- 3.5 As further set out in SECTION 8, the intention is that there is no PHI or PI contained in the Data submitted to CAMH, however, in the event that PHI or PI is inadvertently submitted to the Database, CAMH shall De-identify Data prior to sending any reports to any HR HSP or the MOHLTC to ensure that any such reports do not contain PHI.
- 3.6 CAMH shall provide the De-identified Data to the MOHLTC through a designated portal created by CAMH.

SECTION 4. ROLES AND RESPONSIBILITIES OF THE PARTIES

CAMH

- 4.1 CAMH, as an agent of the HR HSPs, shall provide services, including the following: (collectively, “**Services**”):
 - (a) host the Database and Web Application;
 - (b) trouble shoot with HR HSPs having technological challenges submitting Data;
 - (c) provide live credentials to HR HSPs;
 - (d) track implementation activity of the Database by HR HSPs;
 - (e) provide reports to HR HSPs, the MOHLTC and support queries from the MOHLTC and from HR HSPs regarding their own Data, all as further specified in SECTION 6 of this Agreement;
 - (f) provide notification to all HR HSPs of any unplanned outage or downtime, as soon as reasonably possible;
 - (g) participate in the Harm Reduction Steering Committee, and any other related committees, as required;
 - (h) comply with the minimum technical, physical and administrative safeguards for the Data and Confidential Business Information, as specified in Schedule D;
 - (i) provide incident and breach management support to HR HSPs and any HR HSP of any breach or incident with respect to their Data;
 - (j) delete Data from the Database upon request by the HR HSP that provided the Data.
 - (k) track implementation and provide ongoing feedback on implementation of the Ontario Harm Reduction Database;
 - (l) training all HR HSPs and MOHLTC on use of the Ontario Harm Reduction Database for implementation, including providing all related training materials; and
 - (m) provide ongoing support and training for the Ontario Harm Reduction Database, as needed.

HARM REDUCTION HEALTH SERVICE PROVIDERS

4.2 Each HR HSP shall:

- (a) execute the Adhesion Agreement to this Agreement prior to participation or continued participation in the Harm Reduction Project;
- (b) record Client Service Information and Supply data set out in Schedule B in the Database;
- (c) use reasonable efforts to ensure that their Client Information to be uploaded to the Database and stored as Data is accurate, complete and as up-to-date as necessary;
- (d) determine, in accordance with its own internal policies and procedures, which users within the organization has a need to access the Database to perform his or her responsibilities or assigned duties for the HR HSP and ensure such user has undertaken the requisite training to use the Database and the reporting/analytics portal; and.
- (e) ensure that each user has signed the Authorized User Terms of Use (a copy of which is attached as Schedule E).

4.3 CAMH acknowledges that certain HR HSP's who sign onto this Agreement will be making the Database (and associated services) available to their satellite sites, and each such HR HSP (a Core HR HSP) shall ensure that any satellite sites who access the Database comply with the obligations of this Agreement. In addition, the Core HR HSPs shall support the satellites sites by providing training on the use of the Database and by acting as the liaison with CAMH, as required. If the HR HSP cannot provide the support to their respective satellite sites CAMH will then provide the associated services.

SECTION 5. GOVERNANCE OF THE HARM REDUCTION PROJECT

5.1 **Harm Reduction Steering Committee.** The Harm Reduction Database Steering Committee supports and champions a province wide implementation of NEO360 across all participating sites and advise CAMH regarding communications and the reporting of data as required by the MOHLTC.

SECTION 6. REPORTS

6.1 CAMH shall provide reports to HR HSPs about their Data in a format provided by NEO360 application and/or a reporting format to be developed.

6.2 CAMH shall facilitate reporting to the MOHLTC in respect of the Data in a format to be developed, as outlined in Schedule F. The data will be aggregated and not include PI or PHI.

SECTION 7. REPRESENTATIONS, WARRANTIES AND COVENANTS

7.1 **General Representations, Warranties and Covenants.** Each Party warrants, represents and covenants to the other Parties that it:

- (a) is duly incorporated or established and in good standing under the laws of the Province of Ontario and/or the federal laws applicable thereto;
- (b) has full power and authority to enter into and comply with this Agreement, the representatives signing the Agreement are duly authorized signing authorities, and all necessary acts and procedures have been taken in order to authorize the Agreement;
- (c) has no other agreement that would interfere with its obligations under the Agreement;
- (d) is not aware of any actual or potential conflict of interest that it has in entering into this Agreement;
- (e) operates and shall operate in compliance with all applicable federal, provincial and municipal laws, rules and regulations arising out of or connected with its obligations under this Agreement;; and
- (f) holds and shall hold all permits, licenses, consents, and authorities necessary to perform its obligations under the Agreement.

7.2 **CAMH Performance Warranties and Covenants.** CAMH warrants, represents and covenants to the other Parties that it will:

- (a) perform the Services diligently and competently by experienced and qualified Personnel, in a thorough manner to a standard of professional competence in accordance with industry practices;
- (b) provide the Services to respond to the needs of the Parties in a timely fashion in accordance with all agreed upon timelines applicable to the Services;
- (c) locate the Services and any Data storage only in Ontario in order to ensure that there is no cross-border transfer of Data; and
- (d) provide the Services in a manner that will permit interoperability and compatibility with other products and services necessary to implement the Ontario Harm Reduction Database Initiative.

7.3 While each HR HSP shall use reasonable efforts to ensure that Client Service Information that it uploads to the Database is accurate, complete and up-to-date as necessary for its own purposes, no HR HSP warrants or represents to any other Party the accuracy or the completeness of any Data contained within the said environments.

7.4 The Parties acknowledge and agree that each of them is relying upon the representations, warranties and covenants set out herein in executing this Agreement and that the representations, warranties and covenants set out in this SECTION 7 survive the execution of this Agreement and shall be true throughout the term of this Agreement.

SECTION 8. PRIVACY AND SECURITY OBLIGATIONS

The Parties agree to the following privacy and security obligations:

Roles and Responsibilities:

- 8.1 Each HR HSP retains all responsibility for Data in their custody and control.
- 8.2 Under this Agreement, CAMH operates in the capacity of a Services Provider that is also an agent of the HR HSPs in so far as it will provide certain reports to the MOHLTC on behalf of the HR HSPs. As such, CAMH may use and disclose the Data in accordance with this Agreement as is necessary for CAMH to provide the Services.
- 8.3 While it is intended that the Data submitted to the Database is non-identifiable and does not contain PHI or PI, in the event that there is inadvertent disclosure of PHI of Client by an HR HSP or directly by a Client of an HR HSP, CAMH will follow the process for Privacy Breaches set out below in section 8.9.
- 8.4 Under no circumstances may any Party attempt to re-identify any of the Data provided in the Database.
- 8.5 CAMH may access and use Data of HR HSPs provided to CAMH that is necessary to provide the Services.
- 8.6 CAMH shall not disclose any PHI or PI which may inadvertently be submitted into the Database.
- 8.7 CAMH shall give access to Data only to those of its Personnel acting on its behalf who have a legitimate need to access the Data in order to fulfill CAMH's obligations under this Agreement.
- 8.8 The Data received by CAMH from the HR HSPs shall be retained by CAMH for as long as required to meet the specified MOHLTC purposes. Any Reports derived from the Data will be retained according to CAMH's internal data retention policies.

8.9 Privacy Breaches:

- (a) If CAMH or an HR HSP becomes aware that PHI or PI has inadvertently included in the Data and has been stolen or lost, or a person has obtained unauthorized access to PHI, or that CAMH or an HR HSP has used, disclosed or disposed of the PHI other than as contemplated in this Agreement or in accordance with applicable law (collectively referred to in this sub-section as the "**Breached PHI**"), then the Party who became aware of the Breached PHI shall at the first reasonable opportunity (not to exceed two Business Days) notify the other relevant Party, and the HR HSP that provided the PHI or PI to CAMH will be responsible for addressing the Breached PHI by deleting the PHI from the Database and otherwise handling the breach in accordance with its internal policies.
- (b) If an HR HSP receives a complaint regarding its collection, use, or disclosure of PHI or PI, or a complaint in regard to the privacy practices of the Ontario Harm Reduction Database Initiative, it shall deal with such complaint in accordance with its own procedures for dealing with privacy complaints, and shall immediately advise and

consult with CAMH about the complaint and about the HR HSP's plans to deal with the complaint.

- (c) Without limiting the provisions of this SECTION 8, each Party agrees to cooperate with the other Parties in the event of a privacy breach, complaint or incident, including any complaints to the Information and Privacy Commissioner for Ontario, and take all necessary steps to deal with such breach, complaint or incident.

8.10 This SECTION 8 and Schedule D shall survive the termination or expiry of this Agreement.

SECTION 9. COMMUNICATIONS/CONFIDENTIAL BUSINESS INFORMATION

9.1 Each Party agrees that, except as required to perform the Services or with prior written approval of the affected Party, it will not disclose to any person, firm, corporation or other entity any Confidential Business Information that belongs to or is in respect of another Party or that becomes known to a Party as a result of this Agreement.

9.2 Notwithstanding the foregoing, the Parties understand that CAMH is bound by the *Freedom of Information and Protection of Privacy Act, 1990* ("FIPPA") and that records supplied by the Parties to CAMH may therefore be subject to access under FIPPA. CAMH cannot guarantee that the confidentiality of this Agreement or records created or provided by the Parties will be preserved if a request for access is made under FIPPA. The Parties also understand that the other Parties are not bound by FIPPA. CAMH shall follow all relevant procedures set out in FIPPA for the processing of a request including the provision of notification to the Parties that access has been requested.

9.3 This SECTION 9 shall survive the termination or expiry of this Agreement.

SECTION 10. DISPUTE RESOLUTION

10.1 The Parties agree to open, honest and timely communication regarding this Agreement and their obligations hereunder.

10.2 Where a dispute arises, the individuals overseeing the Ontario Harm Reduction Database Initiative for the involved Parties shall try to resolve the dispute.

10.3 For situations where the individuals set out in Section 10.2 cannot agree upon a solution within one week of the issue being raised, the issue may be referred by any of the Parties to their Executive Directors (or such other of its senior managers designated by a Party), for resolution within a further one week period.

10.4 If the Parties cannot resolve the dispute, the matter shall be considered by the Harm Reduction Steering Committee for resolution within two weeks of the matter being brought forward to the Steering Committee.

10.5 If the matter still is not resolved to the satisfaction of the Parties, any Party may withdraw from and terminate its rights and obligations under this Agreement in accordance with this

Agreement, provided that all provisions of this Agreement which by their nature survive or are specifically set out as surviving the termination or expiry of this Agreement shall remain in force.

SECTION 11. TERM AND TERMINATION

- 11.1 The term of this Agreement commences on the Effective Date and will continue unless:
- (a) terminated in accordance with this SECTION 11;
 - (b) the MOHLTC or other funder ceases to provide or diminishes funding for the Ontario Harm Reduction Database; or
 - (c) an order or direction is issued from the Minister of Health and Long-Term Care, applicable that is inconsistent with the ability of the Parties to fulfil this Agreement.
- 11.2 New HR HSPs may enter into this Agreement on a staggered basis through the signing of an Adhesion Agreement as set out in Schedule C and shall only be responsible for the obligations hereunder as of the effective date set out in their Adhesion Agreement (referred to as the Adhesion Date).
- 11.3 An HR HSP shall have the right to withdraw from and terminate its rights and obligations under this Agreement upon 60 days' written notice to the other Parties.
- 11.4 In order to provide time for an appropriate transition of Services, CAMH may terminate this Agreement upon six months' prior written notice to the other Parties.
- 11.5 If an HR HSP is in default of its obligations under this Agreement CAMH may give notice of default to such HR HSP, specifying the nature of the default, and if the defaulting HR HSP has not within 30 days after receipt of such notice, cured such default to the satisfaction of CAMH, CAMH may terminate the HR HSP as a Party to this Agreement, for default.
- 11.6 If CAMH is in default of its obligations under this Agreement, any Party may give notice of default to CAMH (with a copy to the other Parties), specifying the nature of the default, and if CAMH has not within 30 days after receipt of such notice, cured such default to the satisfaction of such Party, the Party shall bring the matter to the Harm Reduction Steering Committee for resolution. If no resolution is achieved by the Harm Reduction Steering Committee within 30 days, the Party may bring the matter to the MOHLTC for resolution. If the aggrieved Party is CAMH, CAMH shall bring the matter directly to the MOHLTC for resolution.
- 11.7 Upon the termination of this Agreement or a Party for any reason:
- (a) the Parties shall use reasonable commercial efforts to cooperate to minimize any disruption caused by the termination and to transition any of the Services or obligations if required, including in the case of CAMH to take whatever action is necessary in order to transfer the Database;
 - (b) all of the privacy and security obligations of the Parties will continue after termination;
 - (c) in addition to the provisions of (a) and (b) above, if an HR HSP has been terminated or withdraws from its participation in the Agreement, then any Data held by CAMH that has been uploaded to the Database in respect of such HSP will be securely deleted or

dealt with as otherwise instructed by the HR HSP and as agreed to by the parties at the time.

The Harm Reduction Steering Committee shall assist in ensuring an orderly transition in the event of termination of the Agreement or the participation of any Party to this Agreement.

SECTION 12. NOTICES

- 12.1 All notices under this Agreement shall be in writing and shall be served by personal delivery, mail or electronic transmission at the address of the receiving Party set forth below or in Schedule A. All notices by mail shall be by registered mail; return receipt requested and shall be deemed delivered on the fifth Business Day after mailing. All notices by personal delivery shall be deemed delivered on receipt if during a Business Day (if not on a Business Day, then it shall be deemed delivered on the next Business Day). All notices by facsimile transmission shall be deemed delivered on the next Business day following the day of sending.

For CAMH:

Centre for Addiction and Mental Health
Drug & Alcohol Treatment Information System Program
33 Russell Street – 3rd Floor
Toronto, ON M5S 2S1

Attention: Karen MacCon, Director
Fax: (416)593-4694

Notices for the HR HSPs shall be to the individuals specified in Schedule A and their coordinates therein.

SECTION 13. INDEMNIFICATION AND INSURANCE

- 13.1 Each Party (in this sub-section, the “**Indemnifying Party**”) shall defend, indemnify and hold harmless the other Parties against any and all third party civil or administrative actions, claims or proceedings and reasonable legal fees, incurred by the other Party or Parties and result from the negligence of the Indemnifying Party in its performance under this Agreement or the breach of its covenants and agreements under this Agreement by the Indemnifying Party or its Personnel, on the condition that the non-defaulting Parties provide prompt written notice of any claim that might give rise to such liability and co-operate in the defence of such claim, including the provision of material documentation in compliance with applicable legislation, and further provided that the Indemnifying Party may, at its option, assume responsibility for the defence of or response to such third party claim.
- 13.2 CAMH shall also defend, indemnify and save harmless the other Parties against any and all claims or liabilities of any kind whatsoever arising from any third party suit or proceeding brought against the other Parties for the alleged infringement of any copyright, trademark, trade secret or other intellectual property or proprietary right, where such infringement has arisen out of CAMH's performance of the Services.

- 13.3 No Party (including their Personnel) shall be liable to the other Party or Parties or their Personnel in any way whatsoever, for any indirect, punitive, incidental, special or consequential damages, including, but not limited to, loss of savings or profit, nor for any lost revenue. This limitation shall apply whether or not such damages are foreseeable and whether or not the defaulting Party has been advised of the possibility of such damages
- 13.4 Each Party shall maintain and pay for adequate liability insurance to cover its obligations under this Agreement, and at minimum shall maintain: Commercial General Liability Insurance, for third party bodily injury, personal injury and property damage to an inclusive limit of not less than five million dollars (\$5,000,000) per occurrence and not less than five million dollars (\$5,000,000) in the annual aggregate and endorsed to include the other party as additional insured.
- 13.5 Each Party shall maintain network/cyber security and privacy liability insurance in an amount of not less than two million dollars (\$2,000,000) per claim, which shall cover liability for financial loss, imposed by law or assumed under contract of the failure or breach of network security, failure to safeguard against breach caused by hacking or viruses, unauthorized release of and/or failure to protect private personal or corporate information, theft of hardware on which data is stored, and costs to restore and/or recreate lost data. Such insurance shall be on a claims made basis and provide for full defense costs.
- 13.6 Upon request by a Party, the other Parties shall provide a valid certificate of insurance and any replacements thereof that reference this Agreement, and confirms the above requirements.
- 13.7 The obligations under this Section survive the termination or expiration of this Agreement.

SECTION 14. OWNERSHIP OF INTELLECTUAL PROPERTY

- 14.1 The ownership of intellectual property (arising from the Services) between CAMH and NEO 360 shall be as set out in the Master Services Agreement between such parties and survives the termination or expiry of the Agreement.

SECTION 15. GENERAL/INTERPRETATION

- 15.1 **Independent Contractors.** Nothing contained in this Agreement shall constitute or be deemed to create a partnership, joint venture or principal and agent relationship between the Parties. The Parties shall each act as independent contractors for the purposes of this Agreement.
- 15.2 **Governing Law.** This Agreement shall be governed by the laws of Ontario and Canada applicable therein. The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of Ontario.
- 15.3 **Survival.** In addition to those provisions of this Agreement specified as surviving the termination or expiry of this Agreement or which could reasonably be expected to survive the Agreement, the obligations set out in clause 7.2(c), sub-sections 11.7 and 15.3 shall survive the termination of this Agreement for any reason whatsoever.

- 15.4 **Entire Agreement/Amendments** This Agreement and addenda to this Agreement, if any, together with the Schedules constitute the complete contract between the Parties relating to the subject matter hereof and supersedes and replaces any and all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. Any amendment to this Agreement must be made in writing and signed by duly authorized officers of each Party.
- 15.5 **Waiver** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right.
- 15.6 **Approvals** Except where expressly provided as being in the discretion of a Party, if an approval, acceptance, consent, or similar action by a Party is required under the Agreement, then such action shall not be unreasonably delayed or withheld.
- 15.7 **Assignment/Transfer** No Party may assign, transfer or otherwise dispose of all or any part of its rights or obligations under this Agreement without the prior written consent of the other Parties.
- 15.8 **Severability** If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall not be affected thereby.
- 15.9 **Gender and Number** In this Agreement, words importing the singular include the plural and vice versa and words importing gender include all genders, including the neutral gender.
- 15.10 **Successors and Assigns** This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.
- 15.11 **Other Agreements/Further Assurances** Each of the Parties shall upon a reasonable request by any of the Parties, execute and deliver such further documents and do such further acts and things as the requesting Party or Parties may request to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Agreement.
- 15.12 **Legislation** Any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated or replaced from time to time, and any successor statute or regulation thereto.
- 15.13 **Counterparts/Signatures** This Agreement may be executed in counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement. Signatures may be original, faxed, in electronic format or scanned.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorized representatives of CAMH and the HR HRS's as of the Effective Date and as set out below and by the duly authorized representatives of the New HR HSPs as of the effective date set out in their respective Adhesion Agreements.

CENTRE FOR ADDICTION AND MENTAL HEALTH

By:



Name: Karen MacCon
Director, Evaluation and Data Management

March 13th, 2019

Date (MM/DD/YYYY)

By:

Name:
Title:

Date (MM/DD/YYYY)

SCHEDULE A - CONTACT INFORMATION FOR HARM REDUCTION HEALTH SERVICE PROVIDERS

| Name and Address | Name of Executive Sponsor, Title, Phone, Fax and E-mail for Notice Purposes |
|---|--|
| Centre for Addiction and Mental Health Drug & Alcohol Treatment Information System Program 33 Russell Street – 3 rd Floor Toronto, ON M5S 2S1 | Karen MacCon, Director, DATIS E: Karen.maccon@camh.ca T: 4160535-8601 ext. |

SCHEDULE B -

INITIAL LIST OF ELEMENTS OF CLIENT/SERVICE INFORMATION TO BE INCORPORATED TO DATABASE AND FORM PART OF DATA - AS OF September 29th 2017

Site information

- Site Name
- Affiliated PHU
- Programs provided

Client information

- Year of birth
- Gender
- Postal code of residence (Forward Sortation Area only)
- Substances used
- Anonymous Client Code

Transaction information

- Date of transaction
- Location of transaction
- Client collecting on behalf of
- Additional services provided
- Referrals provided

- Safer injection equipment provided
- Safer inhalation equipment provided
- Other equipment provided
- Safer sex supplies provided

Needles returned and Community Clean-up information

- Date needles were returned
- Quantity of needles returned
- Date of community clean-up

Naloxone information

- Naloxone kits distributed
- Training to administer naloxone provided
- Type of individual who reported administration of naloxone
- Location of overdose
- Number of doses individual reported they administered for the overdose
- Individual reported calling 911 when naloxone administered
- Individual reported someone stayed with person until paramedics arrived or person recovered
- Drugs used when overdose occurred
- Reported outcome of naloxone administration
- Reported reasons for resupply of naloxone kit
- Reported access point for previous naloxone kit

SCHEDULE C- ADHESION AGREEMENT

INSTRUMENT OF ADHESION dated _____, 2019 ("**Adhesion Date**") by _____
[insert organization's name] (the "**HR HSP**") to the Service Provider Agreement made as of the 12th day of March, 2019 among Centre for Addiction and Mental Health and the Harm Reduction Health Service Providers that enter into the Adhesion Agreement (the "**Agreement**").

NOW THEREFORE in consideration of being accepted as a party to the Agreement, the HR HSP, intending to be legally bound hereby, covenants and agrees with all present and future parties to the Agreement as follows:

1. The HR HSP hereby covenants to and agrees with each of the other parties to comply with and be bound by all of the terms and conditions of the Agreement, as and from the Adhesion Date, as if the HR HSP were an original Party thereto and to the same extent as the other Parties to the Agreement, and, without limiting the foregoing, to observe, fulfill and perform all of the obligations of an HR HSP under the Agreement.
2. All capitalized terms used but not defined herein have the meanings set out in the Agreement.
3. For purposes of Schedule A of the Agreement, the HR HSP contact information is:

<insert name and title >
<insert organization's address>
<insert organization's telephone number>
<insert organization's fax number>
<insert organization's email address>

[Insert Full Legal Name of HR HSP]

By: _____
I have authority to bind the corporation

The foregoing Instrument is hereby accepted by the current Parties to the Agreement and the HR HSP has accordingly become a Party to the Agreement as of the Adhesion Date, as evidenced by receipt by CAMH or, as applicable, a Core HR HSP, of a completed and executed Adhesion Agreement. For greater certainty, to the extent that the HR HSP has signed an Adhesion Agreement that predates this one, this Adhesion Agreement supersedes and replaces any and all previous Adhesion Agreements related to the Ontario Harm Reduction Database.

SCHEDULE D - MINIMUM TECHNICAL, ADMINISTRATIVE AND PHYSICAL SAFEGUARDS FOR DATA AND CONFIDENTIAL BUSINESS INFORMATION

Technical/Data Security

- authentication measures (such as computer password protection, registration of individuals with access to the Database, and unique log-on identification) have been implemented to ensure that only Authorized Users can access Data and Confidential Business Information
- virus-checking programs have been implemented
- an encryption protocol is used if electronic transmission of Data is required and for Data at rest within the Database
- session management - time out after a period of inactivity
- safeguards are monitored on an ongoing basis for compliance and effectiveness
- CAMH to have a process in place to ensure that access is terminated immediately upon an authorized user no longer requiring access to the Database
- password policy parameters are required such as minimum password length, special characters, expiry, logging invalid login attempts, resets for forgotten user passwords
- ongoing back up of Data
- protection against malware is in place
- regular vulnerability scanning to be in place and conducted

Administrative

- an individual(s) has been designated as being responsible for privacy and security compliance for CAMH in respect of the database
- an agreement between CAMH and each of the Authorized Users of the Database – should also include a click through agreement notice dealing with key elements about use of the Repository when Authorized Users sign on
- agreements between CAMH and any third party that it engages to assist in the administration/management of the Database that flows through the privacy and security obligations under this Agreement (e.g. software developer, helpdesk and technology troubleshooting) including the safeguards set out in this Schedule
- an organizational governance framework for privacy, confidentiality, and security is in place
- organizational policies for Data storage, management, access and correction, breach management, auditing, privacy, security, risk management, retention and destruction have been developed, implemented and are monitored and enforced
- only authorized staff may have access to and use of Confidential Business Information and Data related to this Agreement on a “need-to-know” basis (i.e., when required to perform Services)
- nondisclosure or confidentiality agreements are in place for all Personnel providing Services, which agreements contain appropriate discipline for breach of privacy, confidentiality, or security, up to and including dismissal or termination
- mandatory and ongoing privacy, confidentiality, and security training is conducted for all Personnel providing Services
- a “Privacy Breach” protocol has been developed and implemented
- a policy/protocol is in place for dealing with privacy complaints
- backup security and acceptable business recovery plans, (including disaster recovery, Data backup and alternative power) are in place

Physical

- computers and files that hold Data are housed in secure settings in rooms protected by such methods as combination lock doors or smart card door entry, with paper files stored in locked storage cabinets
- Personnel have been provided with photo identification or coded card swipe, if applicable
- visitors are screened and supervised if in an office setting
- pre-booking of visitors if Data is hosted in a data centre
- the number of locations in which Data is stored has been minimized and specified in advance
- the architectural space of CAMH precludes public access to areas where Data are held
- routine surveillance of premises is conducted
- physical security measures are in place to protect Confidential Business Information and Data from hazards such as flood or fire
- cameras are prohibited in any areas in which Confidential Business Information and Data is available
- CCTV monitoring of CAMH premises
- Storage of Data is not permitted on mobile or local devices
- Network security controls
- provision for secure destruction of Data, including additional persistence (retention) on backup media

SCHEDULE E

AUTHORIZED USER TERMS OF USE AGREEMENT

BY ACCESSING AND USING THE ONTARIO HARM REDUCTION DATABASE AND THE ANALYTICS REPORTING TOOL HOSTED BY THE CENTRE FOR ADDICTION AND MENTAL HEALTH (“CAMH”), YOU ARE AGREEING, AS AN INDIVIDUAL USER TO BE BOUND BY THE TERMS AND CONDITIONS OF USE. IF YOU CANNOT OR DO NOT WISH TO BE BOUND BY THE TERMS, YOU MAY NOT USE THE DATABASE. BY SIGNING BELOW, YOU AGREE TO THE FOLLOWING TERMS:

- 1. Authorized User.** You have been designated by _____ [insert HR HSP name] (“Your Organization”) as an Authorized User to use the Ontario Harm Reduction Database and the related data analytics reporting tool (collectively, the “Database”). As an Authorized User, you may use the Database solely in the manner and for the uses set out below and subject to any further restrictions placed upon your use by Your Organization.
- 2. Permitted Use.** You are only permitted to use the Database and the data in the Database to support organizational planning, policy and quality improvement and supply management for Ontario’s Harm Reduction Database Initiative.
- 3. De-identified Data.** Measures have been taken to ensure that information in the Database does not contain personal information or personal health information as defined in the Personal Health Information Protection Act (“PHIPA”). The MOHLTC is being provided with information that has no personal identifiers.
- 4. Unauthorized Use.** Under no circumstances may you attempt to re-identify any of the information provided to you in the Database. In addition, notwithstanding that no PHI should be included in the Database, according to Ontario law and Your Organization’s internal policies, you may only collect, access, use and disclose personal information and/or personal health information (PHI) for patient/clients at Your Organization that you need to know to carry out your permitted duties for and on behalf of Your Organization and in accordance with PHIPA.
- 5. Fraudulent or Inappropriate Use.** You shall not use the Database in any manner that constitutes inappropriate or unacceptable use. You agree (i) not to share or disclose your user-id and/or password, encryption key or other system access tools to any other person; (ii) not to access the Database with another person’s credentials and password; (iii) not to use the Database to try to access or obtain personal information or personal health information about any individual other than in accordance with the Permitted Use as set out above; (iv) not to wilfully bypass or subvert physical, technological or procedural safeguards such as firewalls, web-filtering software or other access controls; (v) not to allow others to use the Database while you are logged in; (vi) to log out of the Database after each session of use; and (vii) to comply, at all times, with all applicable legal and regulatory requirements and with Your Organization’s security and privacy requirements in respect of the use of and access to the Database.

6. Any fraudulent, abusive, unauthorized or otherwise illegal activity shall be grounds for suspension or termination of your credentials, at CAMH’s sole discretion and without liability to CAMH.

7. You understand that the Database will automatically track your activities in the Database system and periodic audits may be performed to ensure compliance.

8. You understand that the data contained in the Database is obtained from a number of harm reduction health service providers (“HR HSP’s”). Any such data is provided on an "as is" basis without any representation, warranty or condition, whether express or implied, statutory or otherwise, as to: quality; accuracy; completeness; legality; currency; reliability; efficacy or fitness for a particular purpose; uninterrupted access to the Database; error-free operation of the Database; and, the absence of computer viruses and other harmful components or corrupted data or information in the Database.

9. CAMH shall have no liability, whether direct, indirect, consequential, contingent, special or incidental, related to or arising from the information in the Database, unless such liability results from the acts or omissions caused (directly or indirectly) by the negligence of CAMH, as the case may be.

10. You must notify Your Organization and CAMH immediately of any unauthorized use by you of the Database or any other breach of security or unauthorized use regarding the Database that comes to your attention. If you think that another person knows your password, you must notify the Database helpdesk immediately.

11. You agree to provide all necessary assistance to Your Organization and to CAMH in regard to any privacy complaints of individuals and reviews conducted in respect of the Database.

BY SIGNING BELOW, YOU AGREE THAT you have read and understand the terms stated above and agree to be bound by this Authorized User Terms of Use when accessing the Database.

Name of User

Name of Witness:

User Signature (date)

Witness Signature (date)

SCHEDULE F:

REPORTS FROM THE ONTARIO HARM REDUCTION DATABASE

| Report Type | Provided to HR HSPs | Provided to MOHLTC |
|---|----------------------------|---------------------------|
| 1. Queries of own data by each HR HSPs | Yes | |
| 2. Local summary report to each HR HSP (each site) | Yes | Yes |
| 3. NSP summary data (by PHU) used for NSP reporting to MOHLTC | Yes | Yes |
| 4. Summary data by HR HSP used for OCHART reporting to MOHLTC | Yes | Yes |
| 5. Regional summary reports | Yes | Yes |
| 6. Provincial summary reports | Yes | Yes |

All reports (other than #1) are aggregates. None of the reports (including #1) contain PI or PHI.