

Month XX, 2024

«CEO\_Prefix» «CEO\_\_First\_Name» «CEO\_Last\_Name»  
«CEO\_Title»  
«Hospital»  
«Address\_1»  
«City», «Province» «Postal\_Code»

**RE: MENTAL HEALTH AND ADDICTIONS PROVINCIAL DATA SET PROJECT UNDER MASTER DATA SHARING AGREEMENT**

Dear «CEO\_\_First\_Name»:

Ontario Health (“OH”) is pleased to provide «Organization» (“Custodian” or “you”) with this Mental Health and Addictions Provincial Data Set Project Letter Agreement (“Letter Agreement”) for the Mental Health and Addictions Provincial Data Set Project (“MHA-PDS Project”) made pursuant to the Master Data Sharing Agreement (“Master DSA”). All capitalized terms in this Letter Agreement not defined herein refer to the defined terms set out in the Master DSA.

Your organization has agreed to act as a participant in the MHA-PDS Project. This initiative will standardize the collection of service utilization data across the Mental Health and Addictions sector and health service trajectory. The MHA-PDS Project facilitates the collection of information from Health Service Providers’ (“HSPs”) Client Management Systems for the purposes of OH reporting. HSPs will receive data quality reports including a comparison of their data quality statistics to sector averages.

The transfer method, timing, and frequency respecting such disclosure(s) are set forth or otherwise referenced in Schedule “A” to this Letter Agreement. The names and descriptions of the data elements to be disclosed by the Custodian to OH in connection with the MHA-PDS Project are set forth or otherwise referenced in Schedule “B”. By signing this Letter Agreement, you acknowledge and agree that Schedule “A” and Schedule “B” of this Letter Agreement may be amended by OH, acting reasonably, from time to time upon written notice to you. As well, OH may terminate the requirements set out in Schedule “A” and Schedule “B” at any time and for any reason, by providing written notice to you.

This initiative will involve the collection, use, and/or disclosure of personal health information (“PHI”) by OH as a Prescribed Entity under the *Personal Health Information Protection Act, 2004* (“PHIPA”). Given this the initiative will include the collection, use and/or disclosure of PHI, a Master DSA is being issued to your organization as well. The Master DSA is a comprehensive, standardized agreement which outlines the

respective duties and obligations of OH and the Custodian in connection with the collection, use, retention and disclosure of PHI/Personal Information (“PI”) by OH of the Custodian Data for the OH Purposes.

By signing back this Letter Agreement and Master DSA, you agree that collection, use, and disclosure of PHI set out in this Letter Agreement shall be governed by the terms and conditions set out in the Master DSA. Further, you agree that any data elements that you disclose to OH pursuant to this Letter Agreement are data elements that you have previously collected and will continue to collect for the purposes of providing care. You will not begin collecting any new data elements as part of this MHA-PDS Project that, in your clinical opinion, are not necessary for the care and treatment of your clients.

**NEXT STEPS:**

- To confirm your agreement with the terms of this Letter Agreement, please sign below and return an electronic copy to [healthsystem.agreements@ontariohealth.ca](mailto:healthsystem.agreements@ontariohealth.ca) **within 2 weeks upon receipt of this letter.**
- Please sign the Master DSA, provide relevant titles and contact information as set out in Section 10, and return an electronic copy to [healthsystem.agreements@ontariohealth.ca](mailto:healthsystem.agreements@ontariohealth.ca) **within 2 weeks upon receipt of this letter.**
- If you have any questions about this Letter Agreement or the Master DSA, please contact Farzana McCallum, Manager, Performance and Accountability, Clinical Programs, Ontario Health at (437) 703-2946 or email [Farzana.McCallum@ontariohealth.ca](mailto:Farzana.McCallum@ontariohealth.ca).
- If you have any questions about the MHA-PDS Project, please contact the Ontario Health Mental Health and Addictions Centre of Excellence at [MHACoE@ontariohealth.ca](mailto:MHACoE@ontariohealth.ca).

We would like to take this opportunity to thank you for your participation in this initiative.

Sincerely,

**ONTARIO HEALTH**

Judy Linton  
Executive Vice President  
Clinical Institutes and Quality Programs  
& Chief Nursing Executive  
Ontario Health

Sylvie Gaskin  
Chief Privacy Officer  
Ontario Health

The undersigned is in agreement with the terms of this Letter Agreement.

«HOSPITAL»

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Name:

Title:

Date:

I have authority to bind Custodian.

Encl.

SAMPLE

**SCHEDULE "A"**  
**REPORTING REQUIREMENTS**

**Mental Health and Addictions Provincial Data Set Project Data Collection**

The Custodian will collect and submit data to OH as outlined below:

Reporting Details	Description
Relevant Time Period:	<ul style="list-style-type: none"> <li>• Data from start of implementation* until written notice of termination is provided to the Custodian by OH.</li> </ul> <p><i>*Implementation date to be communicated and confirmed between the Recipient, Reconnect Community Health Services (which is leading implementation activities with health service providers) and Ontario Health.</i></p>
Frequency of Transfer:	<ul style="list-style-type: none"> <li>• Daily</li> <li>• The recommended time period for submission is between 9:00 pm – 11:00 pm</li> </ul>
Deadline for Transfer of Full Data Set:	<ul style="list-style-type: none"> <li>• Ongoing</li> <li>• HSPs participating in the MHA-PDS Project will have an established start date for reporting data, however as collection of activity data is ongoing there is no end date for the full data set</li> </ul>
Transfer Method:	<ul style="list-style-type: none"> <li>• The Custodian will use an automated process in their Client Management System database to submit data and will require internet connectivity</li> </ul>

**SCHEDULE “B”**  
**HSP DATA ELEMENTS**

The submission of the following data elements to OH are further subject to the criteria set out in the Reconnect Community Health Services Ontario Health Community Intelligence Vendor Implementation Guide including the exclusion of any records for clients that identify as First Nations, Metis, or otherwise Indigenous (“FNIM”). Any records for clients that identify as FNIM must not be submitted to OH.

<b>Variable Name</b>
<u>CLIENT (CATEGORY)</u>
<u>CLIENT NAME</u>
DATE OF BIRTH
DATE OF BIRTH ESTIMATED FLAG
<u>CLIENT ID (CATEGORY)</u>
CLIENT ID – MEDICAL RECORD NUMBER (MRN)
CLIENT ID ISSUING VENDOR
HEALTH CARD NUMBER (HCN)
HCN ISSUING AUTHORITY
IDENTIFIER TYPE
<u>CLIENT ADDRESS (CATEGORY)</u>
ADDRESS USE
CITY
PROVINCE
POSTAL CODE
<u>CLIENT SOCIAL DETERMINANTS OF HEALTH (SDOH) CATEGORY</u>
SDOH Effective Data
ETHNICITY
RELIGION AND SPIRITUAL AFFILIATION
MOTHER TONGUE
PREFERRED LANGUAGE TO RECEIVE SERVICE
PREFERRED OFFICIAL LANGUAGE

<b>Variable Name</b>
GENDER IDENTITY
SEXUAL ORIENTATION
YEAR ARRIVED IN CANADA
BORN IN CANADA
CITIZENSHIP STATUS
HIGHEST LEVEL OF EDUCATION ATTAINED
EMPLOYMENT STATUS
PERSONAL INCOME SOURCE
MARITAL STATUS
RESIDENCE TYPE
TOTAL HOUSEHOLD INCOME
NUMBER OF PEOPLE HOUSEHOLD INCOME SUPPORTS
LEGAL STATUS
PRE-EXISTING CONDITIONS
REFERRAL (CATEGORY)
REFERRAL RECEIVED DATE
REFERRAL SOURCE
REFERRAL SOURCE TYPE
REFERRAL TYPE
EPISODE OF CARE (CATEGORY)
EPISODE OF CARE STATUS
FIRST CONTACT DATE
SERVICE ENROLLMENT DATE
SERVICE TERMINATION DATE
SERVICE TERMINATION REASON
HEALTH SERVICE PROVIDER ORGANIZATION (CATEGORY)
HEALTH SERVICE PROVIDER ORGANIZATION CONNEX NUMBER
HEALTH SERVICE PROVIDER ORGANIZATION OHRS FACILITY ID
HEALTH SERVICE PROVIDER SITE CONNEX NUMBER

<b>Variable Name</b>
HEALTH SERVICE PROVIDER SITE NAME
HEALTH PROGRAM (CATEGORY)
HEALTH PROGRAM CONNEX NUMBER
HEALTH PROGRAM NAME
FUNCTIONAL CENTRE CODE
HEALTH SERVICE EVENT (CATEGORY)
SERVICE MODALITY
ELIGIBILITY SCREENING DATE
INITIAL ASSESSMENT DATE
SCHEDULED APPOINTMENT DATE
APPOINTMENT RESCHEDULE REASON
SERVICE INITIATION DATE
ENCOUNTER DATE
HEALTH SERVICE GROUP
DIRECT MINUTES
INDIRECT MINUTES

SAMPLE

This **MASTER DATA SHARING AGREEMENT** is made as of the 1<sup>st</sup> day of April, 2023 (the “Effective Date”)

**BETWEEN:**

**ONTARIO HEALTH**

(“OH”)

- and -

**[FACILITY]**

(“Custodian”)

(Each of OH and Custodian is a “Party” to this Agreement, and both are collectively referred to herein as the “Parties”).

**WHEREAS:**

- A. OH is an agency under the Ministry of Health, Government of Ontario with a mandate to oversee health care delivery across the province in accordance with the objects set out in the Connecting Care Act, 2019.
- B. OH is authorized to collect, use and disclose personal health information (“PHI”) as a prescribed entity (“PE”) and prescribed person (“PP”) under the Personal Health Information Protection Act, 2004 (“PHIPA”).
- C. OH, as a PP and PE, could collect PHI without the consent of the individual to whom the information relates if, among other matters, the Information and Privacy Commissioner of Ontario (the “IPC”) approves its privacy practices and procedures every three years. The IPC most recently approved OH’s privacy practices and procedures as a PP and PE on October 31, 2023 which confirm that OH continues to have in place practices and procedures to protect the privacy of individuals whose PHI it receives and to maintain the confidentiality of that information in accordance with PHIPA.
- D. OH is authorized to collect, use and disclose PI (as defined below) as an “institution” in accordance with Part III of the Ontario *Freedom of Information and Protection of Privacy Act*, as amended from time to time (“FIPPA”).
- E. Custodian is authorized to collect, use and disclose PHI (as defined below) as a HIC (as defined below) under PHIPA.
- F. Custodian has participated and/or seeks to participate in certain OH projects, programs and initiatives, and such OH projects, programs and initiatives may involve the collection, use, and/or disclosure of PHI and PI by OH as a Prescribed Entity, a Prescribed Registry, and/or an “institution” under FIPPA.
- G. The Parties wish to enter one “master” data sharing agreement (this “Agreement”) in order to comprehensively address the standard terms and conditions governing such



collection, use and/or disclosure of PHI and PI by OH in respect of certain OH projects, programs or initiatives, including the use and/or disclosure of PHI and PI collected prior to the Effective Date of this Agreement in respect of identical or equivalent OH projects, programs or initiatives.

**NOW THEREFORE**, for good and valuable consideration, the validity and sufficiency of which are expressly acknowledged by each of the Parties, the Parties hereby agree to the following terms and conditions.

## **SECTION 1. DEFINITIONS AND INTERPRETATION**

1.1. In this Agreement, the following terms shall have the following meanings:

- a) **“Agreement”** shall have the meaning ascribed to such term in the recitals and, for greater certainty, shall include all schedules attached hereto;
- b) **“Applicable Law”** shall mean, with respect to any person, property, transaction, event or other matter, any law, statute, regulation, order, judgment, decree, treaty or other requirement having the force of law relating to or applicable to such person, property, transaction, event or other matter, as amended from time to time;
- c) **“OH”** shall have the meaning ascribed to such term in the preamble to this Agreement;
- d) **“OH’s Confidential Information”** shall have the meaning ascribed to such term in s. 2.7 of this Agreement;
- e) **“OH Purposes”** shall have the meaning ascribed to such term in s. 2.5(d) of this Agreement;
- f) **“Commissioner”** shall mean the Information and Privacy Commissioner of Ontario and her/his lawful delegate(s) and staff members, as the context permits;
- g) **“Custodian Data”** shall mean (i) all PHI and PI referenced in the Participation Agreements as described in s 2.3 of this Agreement that is collected by OH from Custodian and (ii) any PHI or PI collected by OH from Custodian at any time prior to the Effective Date as a result of Custodian’s participation in a OH project, program or initiative that is identical or equivalent to any OH project, program or initiative identified in a Participation Agreement;

- h) **“Data Linkage”** shall mean the bringing together of two or more records of PHI and/or PI to form a composite record for a specific individual.
- i) **“Destroy”** means, in respect of the Custodian Data, to:
- physically destroy all print and other hard copies of it; and
  - sanitize or otherwise remove all electronic, digital or other versions of it from every item of equipment and all media (including disks, computers, servers, and related peripheral storage equipment such as disk arrays) that it has been installed, downloaded, or otherwise put onto (other than Custodian Data contained on network backups, which shall be sanitized in accordance with their ordinary lifecycle);
  - provide Custodian with a certificate of destruction within thirty (30) days of the date of destruction which includes (i) a description of the data that was sanitized, (ii) the date, time, location and method of sanitization, and (iii) the name and signature of the person who performed the sanitization.
- j) **“Effective Date”** shall have the meaning ascribed to such term in the preamble to this Agreement;
- k) **“FIPPA”** shall have the meaning ascribed to such term in the recitals to this Agreement;
- l) **“Health Care”** shall have the meaning ascribed to the term “health care” in s. 2 of PHIPA;
- m) **“HIC”** shall have the meaning ascribed to the term “health information custodian” in s. 3 of PHIPA;
- n) **“Information Practices”** means practices and procedures to protect the privacy of the individuals whose PHI OH collects as a Prescribed Entity, a Prescribed Registry and/or an Institution, and to maintain the confidentiality of such information, as such practices and procedures are amended from time to time;
- o) **“Institution”** shall have the meaning ascribed to that term in s. 2 of FIPPA;
- p) **“MFIPPA”** means the Municipal Freedom of Information and Protection of Privacy Act;

- q) **“Participation Agreements”** shall mean each agreement to which both OH and Custodian are parties (including funding agreements, project agreements, program agreements, and license agreements) in which:
- i. Custodian agrees to participate in one or more identified OH projects, programs and/or initiatives; and
  - ii. the Parties explicitly agree that the collection, use and disclosure of PHI and/or PI by OH in respect of such identified OH projects, programs and initiatives shall be governed by the terms and conditions set out in this Agreement.
- r) **“Party”** and **“Parties”** shall have the respective meanings ascribed to such terms in the preamble to this Agreement;
- s) **“PHI”** shall have the meaning ascribed to the term “personal health information” in s. 4 of PHIPA;
- t) **“PHIPA”** shall have the meaning ascribed to such term in the recitals to this Agreement;
- u) **“PHIPA Regulation”** shall mean O. Reg. 329/04, the general regulation under PHIPA, as amended from time to time;
- v) **“PI”** shall have the meaning ascribed to the term in “personal information” in s. 2 of FIPPA;
- w) **“Prescribed Entity or PE”** shall have the meaning ascribed to such term in the preamble to this Agreement;
- x) **“Prescribed Person or PP”** shall have the meaning ascribed to such term in the preamble to this Agreement;
- y) **“Prescribed Registry”** shall have the meaning ascribed to such term in the PHIPA; and
- z) **“Publication”** means any analysis which a Party produces through use of the Custodian Data and then publishes (*i.e.*, discloses to any third party).

1.2. Headings used in this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement.

1.3. In this Agreement, words in the singular shall include the plural and vice-versa.

## **SECTION 2. PURPOSE AND LEGAL AUTHORITY**

- 2.1. The purpose of this Agreement is to set out the terms and conditions governing the collection, use, retention and disclosure by OH of the Custodian Data for the OH Purposes.
- 2.2. OH agrees to collect from Custodian and Custodian agrees to disclose to OH, the Custodian Data to the extent such collection and disclosure is permitted by Applicable Law.
- 2.3. The names and descriptions of the data elements to be disclosed by Custodian to OH, as well as the transfer method, timing, and frequency respecting such disclosure(s) shall be as set forth or otherwise referenced in each Participation Agreement in which Custodian agrees to disclose PHI to OH as a result of Custodian's participation in a OH project, program or initiative.
- 2.4. OH represents to Custodian that (a) all of the Custodian Data is necessary for the OH Purposes, (b) other information (de-identified or aggregate) will not serve the OH Purposes and (c) no more Custodian Data is being collected and used than is reasonably necessary to meet the OH Purposes.
- 2.5. The Parties acknowledge and agree that:
- a) Custodian is permitted to disclose the Custodian Data that constitutes PHI to OH in OH's capacity as a Prescribed Entity under s. 45(1) of PHIPA and OH, as a Prescribed Entity, is authorized to collect such Custodian Data from Custodian under s. 45(5) of PHIPA;
  - b) Custodian is permitted to disclose the Custodian Data that constitutes PHI to OH in OH's capacity as a Prescribed Registry under s. 39(1)(c) of PHIPA and OH, as a Prescribed Registry, is authorized to collect such Custodian Data under s. 39(4) of PHIPA;
  - c) OH is permitted to collect such Custodian Data that constitutes PI in accordance with s. 38(2) of FIPPA and, if Custodian is an "institution" under FIPPA or MFIPPA, Custodian is permitted to disclose such PI to OH in accordance with s. 42 of FIPPA or s. 32 of MFIPPA;
  - d) OH may use and disclose the Custodian Data:

- i. that constitutes PHI in accordance with s. 45(6) of PHIPA and s. 18 of the PHIPA Regulation as a Prescribed Entity;
- ii. that constitutes PHI in accordance with s. 49(1) of PHIPA (or, in the alternative, ss. 41(1)(b) and 42(1)(c) and (d) of FIPPA) and s. 13 of the PHIPA Regulation as a Prescribed Registry; and
- iii. that constitutes PI, including any data created by OH using the Custodian Data that constitutes PI, in accordance with ss. 41 and 42 of FIPPA as an “institution” under FIPPA; and
- iv. as otherwise permitted or required by Applicable Law;

(collectively, the “**OH Purposes**”);

- e) OH, as a Prescribed Entity, may disclose PHI to Custodian (and Custodian may indirectly collect such PHI from OH) provided that:
  - i. the disclosure of such PHI by OH is permissible under s. 18(5) of the PHIPA Regulation;
  - ii. the indirect collection of such PHI by Custodian is permissible under s. 36(1)(g) of PHIPA; and
  - iii. Custodian ensures that such PHI is protected as if Custodian had directly collected such PHI in the course of providing Health Care; and
- f) OH, as a Prescribed Registry, may disclose PHI to Custodian (and Custodian may indirectly collect such PHI from OH) provided that:
  - i. The disclosure of such PHI is permissible under s. s. 49(1) of PHIPA (or, in the alternative, ss. 42(1)(c) and (d) of FIPPA);
  - ii. the indirect collection of such PHI by Custodian is permissible under s. 36(1)(g) of PHIPA; and
  - iii. Custodian ensures that such PHI is protected as if Custodian had directly collected such PHI in the course of providing Health Care.

2.6. Custodian agrees that OH may use the Custodian Data to perform Data Linkage provided that (a) such Data Linkage is reasonably necessary for the OH Purposes and (b) OH performs such Data Linkage in accordance with its Information Practices.

- 2.7. In order to achieve the goals of the initiatives, projects and programs contemplated in the Participation Agreements, OH, at its discretion, may provide Custodian with access to and/or possession of certain confidential and/or proprietary information of OH (“**OH’s Confidential Information**”). The Parties acknowledge that OH’s Confidential Information may include PI and/or PHI. Custodian agrees that where OH, at its discretion, provides Custodian with access to and/or possession of PI and/or PHI in order to achieve the goals of the initiatives, projects and programs contemplated in the Participation Agreements, Custodian shall comply with the “Principles and Procedures for the Provision and Use of Personal Information and Personal Health Information”, which are contained in Schedule “A” to this Agreement.

### **SECTION 3. PRIVACY AND SECURITY OF CUSTODIAN DATA**

- 3.1. OH shall comply with its Information Practices, and with all Applicable Law relating to the collection, use and disclosure of Custodian Data, including FIPPA, PHIPA and the PHIPA Regulation. OH shall provide a high-level description of its Information Practices with respect to its roles as a Prescribed Entity and a Prescribed Registry on its public website. This description may be contained in a OH privacy policy that is contained on OH’s public website.
- 3.2. Throughout the term of this Agreement and at minimum once every three (3) years, OH shall provide Custodian with evidence that the Commissioner has approved OH’s Information Practices as a Prescribed Entity and as a Prescribed Registry, in accordance with s. 45(4) of PHIPA and s. 13(2) of the PHIPA Regulation, respectively. It is acknowledged that approval by the Commissioner shall be sufficiently evidenced by such approval being posted to the public website of the Commissioner.
- 3.3. OH shall implement the following security safeguards in handling the Custodian Data:
- a) OH shall maintain such Information Practices and systems as may be reasonably necessary (i) to prevent unauthorized or inadvertent use, disclosure, loss, alteration or destruction of the Custodian Data and (ii) to ensure that the Custodian Data is protected against unauthorized copying, modification or disposal;
  - b) The Custodian Data shall be kept in one or more physically secure location(s) at all times separate and apart (*i.e.*, held in a separate database within the same database management system) from all other records and databases except as required for the purpose of Data Linkage as described in s. 2.6 of this Agreement;

- c) OH, in its use of the Custodian Data, shall only grant access to the Custodian Data to its agents (*e.g.*, employees or service providers) who reasonably require such access to carry out their work responsibilities or other contractual obligations to OH.
- d) Each agent of OH who is granted access to the Custodian Data shall be contractually bound to maintain the confidentiality of the Custodian Data in accordance with OH's Information Practices.
- e) Access to the Custodian Data shall be (i) periodically reviewed to confirm that such access continues to be reasonably necessary in accordance with s. 3.3(c) of this Agreement, and (ii) monitored to facilitate security;
- f) Any aggregated data or anonymized record-level data generated by OH using the Custodian Data shall be de-identified such that it would not be reasonably foreseeable in the circumstances that such aggregate data or anonymized record-level data could be used, either by itself or in combination with other information, to identify an individual whose PHI and/or PI is contained in the Custodian Data;
- g) OH shall not contact any individual identified in the Custodian Data except as permitted under Applicable Law;
- h) Although OH may retain the Custodian Data indefinitely provided that OH continues to require the Custodian Data for the OH Purposes, OH shall retain the Custodian Data for only so long as is reasonably necessary to fulfill the OH Purposes, and OH shall Destroy the Custodian Data that is no longer required to fulfill the OH Purposes within thirty (30) days of determining that the Custodian Data is no longer required;
- i) OH shall notify Custodian in writing immediately upon becoming aware, or upon reasonably suspecting, that (i) any of the terms and conditions set out in this Agreement have been breached or (ii) any Custodian Data in the custody or control of OH has been stolen, lost or accessed by unauthorized persons. In these circumstances, OH shall also take reasonable steps to contain the incident and mitigate any adverse effects.

3.4 Although OH's compliance with this Agreement will not be audited, in the event that Custodian has concerns about OH's compliance with the provisions of this Agreement, Custodian shall provide OH with written notice of such concerns and its reasons for them. Within fourteen (14) business days of receipt of such notice, OH shall investigate

the matter and provide Custodian with a report stating the cause of the deficiency, if any, and the steps taken to prevent a recurrence, if required.

#### **SECTION 4. REPRESENTATIONS AND WARRANTIES**

4.1. OH represents and warrants that:

- a) OH is a Prescribed Entity and a Prescribed Registry under PHIPA;
- b) OH is an Institution under FIPPA;
- c) OH's Information Practices as a Prescribed Entity and as a Prescribed Registry have been approved by the Commissioner within three (3) years of the Effective Date as required by s. 45(4) of PHIPA and s. 13(2) of the PHIPA Regulation, respectively;
- d) OH is in compliance with its obligations as a Prescribed Entity and as a Prescribed Registry under PHIPA; and
- e) OH is in compliance with its obligations as an Institution under FIPPA.

4.2. Custodian represents and warrants that:

- a) Custodian is a HIC under PHIPA;
- b) Custodian is in compliance with its obligations as a HIC under PHIPA; and
- c) Custodian has authority as a HIC under PHIPA to disclose to OH as a Prescribed Entity and as a Prescribed Registry the reports, records and other information containing PHI referenced in the Participation Agreements.

#### **SECTION 5. INTELLECTUAL PROPERTY**

5.1. Nothing in this Agreement prohibits or otherwise restricts Custodian from using the Custodian Data to generate Publications. OH acknowledges and agrees that OH has no intellectual property interest, right, title or interest in any Publications generated by Custodian. Custodian reserves all its copyright, intellectual property rights, and other property rights and other rights in and to such Publications, subject only to any intellectual property rights of any third party and the terms of this Agreement.

5.2. Without limiting OH's rights to collect, use and disclose the Custodian Data in accordance with s. 2.5 of this Agreement, OH may use the Custodian Data to generate Publications, subject to its privacy obligations under s. 3.3(f) of this Agreement. Custodian



acknowledges and agrees that Custodian has no intellectual property interest, right, title or interest in any Publications generated by OH. OH reserves all its copyright, intellectual property rights, and other property rights and other rights in and to such Publications, subject only to any intellectual property rights of any third party and the terms of this Agreement.

## **SECTION 6. ACCESS TO INFORMATION**

- 6.1. OH is (and Custodian may be) designated as an “institution” within the meaning of FIPPA and, as a result, all persons may have a legal right of access to information in the custody and/or control of OH (and Custodian if Custodian is so designated), subject to a limited set of exemptions. Notwithstanding any provision to the contrary in this Agreement, the Parties acknowledge and agree that this Agreement and any records or information related to this Agreement, or any portion thereof, if appropriate, in accordance with FIPPA and other Applicable Law, may be disclosed in accordance with the provisions of FIPPA, based on a request and/or order or decision of the Commissioner or otherwise as required under Applicable Law. The Party subject to an access request in respect of such records shall provide the other Party with notice of the request to the extent required by FIPPA and other Applicable Law.

## **SECTION 7. LIMITATION OF LIABILITY**

- 7.1. In no event shall either Party be liable to the other for consequential, exemplary, indirect, special or incidental damages or be liable to any third party for any damages whatsoever, even if a Party has been advised of the possibility of such damages.

## **SECTION 8. DISPUTE RESOLUTION**

- 8.1 Each Party agrees to utilize all reasonable efforts to resolve any dispute arising during the term of this Agreement or any time after the expiration or termination of this Agreement, which touches upon the construction, meaning or performance of, or that affects this Agreement, or the rights and liabilities of the Parties or any matter arising out of or connected with this Agreement, promptly and in an amicable and good faith manner by negotiation between the Parties.

## **SECTION 9. TERM AND TERMINATION**

- 9.1 This Agreement shall commence as of the Effective Date and shall continue indefinitely unless terminated pursuant to the terms herein.
- 9.2 This Agreement may be terminated in any of the following ways:
- a) By mutual, written agreement of the Parties;
  - b) By either Party, without cause, upon the provision of at least three (3) months' written notice to the other Party;
  - c) By Custodian, upon the provision of written notice of termination to the other Party, if OH fails to perform or comply with any term or condition of Section 3 hereof and such failure to perform or comply is not remedied within ten (10) business days of written notice to so remedy; or
  - d) By Custodian, upon the provision of written notice of termination to OH, if OH fails to perform or comply with any material term or condition of this Agreement (other than a term or condition contained in Section 3 of this Agreement) and such failure to perform or comply is not remedied within fifteen (15) business days of written notice to so remedy.
- 9.3 This Agreement shall automatically and immediately terminate in the event that OH ceases to be a Prescribed Entity and a Prescribed Registry.

## **SECTION 10. NOTICE**

- 10.1 Any notice or other document to be given by one Party to the other hereunder shall be in writing and delivered by mail, email, facsimile or courier as follows:

*If to OH:*

Address: 525 University Avenue, Toronto, ON M5G 2L3  
Attention: Chief Privacy Officer  
Email: [Privacy@ontariohealth.ca](mailto:Privacy@ontariohealth.ca)

*If to Custodian:*

Address:  
Attention:  
Email:  
Fax No:

**SECTION 11. GENERAL TERMS**

11.1 **Amendments.** This Agreement may be amended:

- a) by written agreement of the Parties; or
- b) by OH where OH, acting reasonably, determines that such an amendment is required in order to ensure that the Agreement complies with OH's Information Practices and Applicable Law (including PHIPA and the PHIPA Regulation); such an amendment shall be effective ten (10) business days after OH has provided Custodian with such written notice.

11.2 **Assignment and Enurement.** No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party. Subject to the preceding, this Agreement enures to the benefit of and binds the Parties and their respective successors and permitted assigns.

11.3 **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.

11.4 **Waiver.** The waiver by one Party of a breach or default of any provision of this Agreement by the other Party shall not be effective unless in writing and shall not be construed as a waiver of any succeeding breach of the same or of any other provision.

11.5 **Entire Agreement.** This Agreement, together with any schedules, appendices, agreements and other documents to be delivered hereunder, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. Except as otherwise set out in any Participation Agreement or any other agreement between the parties, and as specifically referencing this s.11.5 and the exception thereto, in the event of any conflict between this Agreement and any Participating Agreement or other agreement between the Parties concerning the subject matter hereof, this Agreement prevails. Except as otherwise expressly provided in this Agreement, there are no representations, warranties, conditions, other agreements or acknowledgements, whether direct or collateral, express or implied, that form part of or affect this Agreement.

- 11.6 **Survival.** All provisions of this Agreement which are by their nature intended to survive the termination of this Agreement shall survive such termination, including, without limiting the generality of the foregoing, ss. 2.5 to 2.7, 3, 5 to 8, and 10 and 11.
- 11.7 **Governing Law.** This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein, without reference to conflict of laws rules or principles. Each of the Parties irrevocably submits and attorns to the exclusive jurisdiction of the courts sitting in the Province of Ontario.
- 11.8 **Severability.** Any provision of this Agreement that is found by a court of competent jurisdiction to be prohibited or unenforceable shall not invalidate the remaining provisions hereof.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF** the Parties have duly executed this Master Data Sharing Agreement as of the Effective Date.

**ONTARIO HEALTH**

By:

\_\_\_\_\_  
Name: Vicky Simanovski  
Title: Vice President, Sector Support,  
Performance and Accountability, Ontario  
Health  
Date: Month XX, 2024

By:

\_\_\_\_\_  
Name: Sylvie Gaskin  
Title: Chief Privacy Officer, Ontario Health  
Date: Month XX, 2024

**[FACILITY]**

By:

\_\_\_\_\_  
Name:  
Title:  
Date:

I have authority to bind Custodian.

## Schedule "A" – PRINCIPLES AND PROCEDURES FOR THE PROVISION AND USE OF PERSONAL INFORMATION AND PERSONAL HEALTH INFORMATION

### Definitions

1. For the purposes of this Schedule:
  - a. **"Agreement"** shall mean the agreement to which this Schedule is attached;
  - b. **"Applicable Law"** shall have the same meaning as in the Agreement;
  - c. **"Applicable Privacy Requirements and Security Requirements"** shall mean all Privacy Requirements and Security Requirements identified by OH in writing in accordance with s. 2 of this Schedule, as well as all of Custodian's obligations set out in ss. 2 and 4 to 6 of this Schedule, and **"Applicable Privacy Requirement and/or Security Requirement"** shall have a corresponding meaning;
  - d. **"OH"** shall have the same meaning as in the Agreement;
  - e. **"OH Information"** shall mean PI or PHI in the custody or control of OH that OH discloses to Custodian in accordance with s. 2.7 of the Agreement;
  - f. **"Custodian"** shall have the same meaning as in the Agreement;
  - g. **"FIPPA"** shall have the same meaning as in the Agreement;
  - h. **"PHI"** shall have the same meaning as in the Agreement;
  - i. **"PHIPA"** shall have the same meaning as in the Agreement;
  - j. **"PI"** shall have the same meaning as in the Agreement;
  - k. **"Privacy Requirements"** shall mean the requirements (both positive and negative, and including limitations and prohibitions) of PHIPA, FIPPA, OH's privacy policies, and orders, guidelines, fact sheets and best practices issued by the Information and Privacy Commissioner of Ontario, and such other requirements as set out herein, each as may be approved, implemented, and amended from time to time;
  - l. **"Schedule"** shall mean this Schedule "A" to the Agreement;
  - m. **"Security Requirements"** shall mean the requirements (both positive and negative, and including limitations and prohibitions) set out in OH's security policies, and as set out herein, each as may be approved, implemented, and amended from time to time; and
  - n. **"User"** shall have the meaning set out in s. 5(f) of this Schedule.

### Access

2. Access to OH Information shall be administered at OH's discretion. At the time access is granted to particular records of OH Information for a particular purpose, OH shall provide Custodian with written instructions concerning the type, scope and timing of such access, as well as the Privacy Requirements and Security Requirements which apply to such access in addition to those set out in this Schedule. Custodian shall comply with such instructions.

### Custodian Acknowledgements

3. Custodian acknowledges and agrees that:
  - a. OH has custody and/or control of certain PHI and PI;
  - b. in the course of participating in a OH program, project or initiative as contemplated in s. 2.7 of the Agreement, Custodian may collect, access, use, retain, transfer and/or dispose of OH Information only on behalf of OH and not on its own behalf or for its own purposes; and
  - c. any violation of any Applicable Privacy Requirement or Security Requirement may result in the termination of access to OH Information by Custodian.

### General Obligations

4. Custodian shall not, without the prior written consent of OH:
  - a. disclose any OH Information to any third party whether or not affiliated or unaffiliated with the Custodian;
  - b. collect, use or disclose any OH Information if other information may be used to serve the same purpose;
  - c. collect, use or disclose more OH Information than is reasonably necessary to perform its obligations under s. 2.7 of the Agreement;
  - d. collect, use or disclose any OH Information except as permitted in accordance with OH's written instructions provided in accordance with s. 2 of this Schedule or as required by Applicable Law; and/or
  - e. subcontract any of its rights or obligations under this Schedule.
5. Custodian shall:
  - a. comply with the Applicable Privacy Requirements and Security Requirements;
  - b. maintain a log for each receipt of records of OH Information containing PHI when records of such PHI are securely retained by Custodian;
  - c. retain all records of OH Information in a secure manner and identify the precise methods by which such records, whether in paper or electronic format, are to be securely retained by Custodian;
  - d. take steps that are reasonable in the circumstances to ensure that OH Information is protected against theft, loss and unauthorized use, disclosure, copying, modification and/or disposal;
  - e. take steps that are reasonable in the circumstances to contain any breach or violation of the terms herein;
  - f. ensure that only its employees and permitted subcontractors access OH Information (each, a "User") on a need-to-know basis in order to carry out its responsibilities under s. 2.7 of the Agreement;

- g. ensure that, where required by OH in accordance with the written instructions provided to Custodian under s. 2 of this Schedule, each User executes an acknowledgement form prepared by OH indicating that the User has reviewed the Applicable Privacy Requirements and Security Requirements, prior to being given access to OH Information;
- h. take reasonable steps, through training of Users, signing of confidentiality agreements by Users, and applying appropriate sanctions (up to and including termination of the relationship that a User has with Custodian), to ensure compliance by all Users with the Applicable Privacy Requirements and Security Requirements; and
- i. upon notice from OH, promptly remedy any security deficiencies or improvements identified or requested by OH.

#### **Removal, Transfer and Transmission**

- 6. Custodian shall not remove, transfer or transmit from OH's offices, or access from outside of OH's offices, any OH Information without the prior written approval of OH, which may be set out in the written instructions provided to Custodian under s. 2 of this Schedule. If such approval is given, then all OH Information shall be stored at Custodian's premises in a secure physical and/or electronic environment. Such environment(s) must meet or exceed then-current industry standards given the sensitive nature of the OH Information.

#### **Individual Access Request and Complaints**

- 7. If Custodian receives any requests from individuals for access to their PHI and/or PI that is contained in the OH Information, Custodian shall forthwith advise such individuals, in such form and on such terms as OH may from time to time specify, that all such PHI and/or PI is held only on behalf of OH, and that such request should be directed to OH.

#### **Violation of Privacy Requirements or Security Requirements**

- 8. Custodian shall promptly advise OH if it believes that any practice or procedure conducted by Custodian with respect to OH Information contravenes any Applicable Privacy Requirement and/or Security Requirement, or if it receives or learns of any complaint or allegation to that effect. Custodian shall take reasonable steps to eliminate any identified contravention of any Applicable Privacy Requirement or Security Requirement in a timely manner.
- 9. Custodian shall immediately notify OH in writing in the event of the theft, loss, destruction, unauthorized access, disclosure, copying, use or modification of any OH Information, and/or breach or suspected breach of the terms herein, any Applicable Privacy Requirement and/or Security Requirement.



**Termination, Retention, Return and Disposal of Records**

10. In the event of the expiration or early termination of the Agreement, or at any time upon the written request of OH:
- a. Custodian shall forthwith securely return to OH or securely dispose of all OH Information held by Custodian only in accordance with the direction of OH and the time frame(s) and requirements stipulated by OH and shall keep no copies of such OH Information;
  - b. if Custodian securely disposes of the records of OH Information, whether in paper or electronic form, Custodian must permanently destroy such records (for example, through irreversible shredding such as “cross-cut” shredding for paper records) other than OH Information contained on network backups, which shall be sanitized in accordance with their ordinary lifecycle, and OH shall be provided with an opportunity to witness such disposal;
  - c. Custodian shall provide, on written request by OH, an officer’s certificate attesting to the completion of the secure return or disposal in accordance with subsection 10(a.) above, in addition to the following information: (i) a description of the records of OH Information that were disposed; (ii) the date, time and method of disposal; and (iii) the name of the person who performed the secure return or disposal;
  - d. Custodian shall terminate each User’s ability to access OH Information; and
  - e. Custodian shall forthwith securely return all identification cards, access cards and/or keys, as applicable.

**Compliance Audit**

11. OH reserves the right to audit compliance with this Schedule by Custodian and Users and Custodian and any Users shall cooperate with any such compliance audits.