

OPERATIONAL SUPPORT PROVIDER AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2023.

BETWEEN:

Ross Memorial Hospital

(the “Operational Support Provider”)

- and -

The OHT Members listed on Schedule “A”

(the “OHT Members”)

WHEREAS the Kawartha Lakes Haliburton Ontario Health Team requires certain support services;

AND WHEREAS the Operational Support Provider is willing to provide to the OHT the support services described herein on the terms and conditions specified herein;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1 – INTERPRETATION

1.1 Definitions

- (a) The terms “**collect**”; “**disclose**”; “**electronic service provider**”, “**health care**”, “**health information custodian**”, “**personal health information**” (or “**PHI**”); and “**use**” shall have the respective meanings ascribed thereto by PHIPA
- (b) “**Agreement**” means this Operational Support Provider Agreement and all Schedules attached hereto;
- (c) “**Claims**” has the meaning set forth in section 6.1 hereof;
- (d) “**FIPPA**” has the meaning set forth in section 5.1 hereof;
- (e) “**Force Majeure Event**” has the meaning set forth in section 7.1 hereof;
- (f) “**Governmental Authority**” means any Crown agency with designated or delegated authority, as applicable, including without limitation, the Ministry of Health, Ministry of Long-Term Care and Ontario Health;
- (g) “**Indemnified Parties**” has the meaning set forth in section 6.1 hereof;
- (h) “**OHT**” means the Kawartha Lakes Haliburton Ontario Health Team;

- (i) **“OHT Associate/Affiliate”** means an organization or person that is an Associate/Affiliate Partner under the OHT Collaboration Agreement;
- (j) **“OHT Budget”** has the meaning set forth in the OHT Collaboration Agreement;
- (k) **“OHT Collaboration Agreement”** means the Kawartha Lakes Haliburton OHT Collaboration Agreement dated **[Insert]**;
- (l) **“OHT Confidential Information”** means information developed, known or used by the OHT or individual OHT Members in connection with the business and affairs of the OHT, including but not limited to any documentation, contracts, funding proposals, compilation of information, data, program, method, technique or process, present and future information about or relating to the OHT’s Projects, financial information of all kinds relating its activities and related material, but does not include OHT Participant Confidential Information;
- (m) **“OHT Members”** means the members listed in Schedule A;
- (n) **“OHT Participant Confidential Information”** means materials, information and data relating to an OHT Participant’s business including information and personal information relating to clients or patients, or to business and financial affairs;
- (o) **“OHT Participant”** means OHT Members and OHT Associates/Affiliates;
- (p) **“Operational Support Provider”** means Ross Memorial Hospital;
- (q) **“Oversight Committee”** means the oversight committee established pursuant to the OHT Collaboration Agreement;
- (r) **“Party”** or **“Parties”** means each or either of the OHT Members or the Operational Support Provider, or both the OHT Members and the Operational Support Provider, as the context may require;
- (s) **“PHIPA”** means the *Personal Health Information Protection Act, 2004*;
- (t) **“Quality of Care Purposes”** is purposes of activities to improve or maintain the quality of care provided to the individual to whom the personal health information relates or to individuals provided with similar health care;
- (u) **“Service Fees”** has the meaning set forth in section **Error! Reference source not found.** hereof; and
- (v) **“Services”** has the meaning set forth in section 2.1 hereof.

ARTICLE 2– SERVICES

- 2.1 The Operational Support Provider shall provide to the OHT the support services set out in Schedule B hereto (the **“Services”**).
- 2.2 The Operational Support Provider shall notify the OHT Members as soon as possible of any situation which affects the ability of the Operational Support Provider to provide some or all of the Services.

2.3 The Services may be amended, added or removed in accordance with section 3.4.

ARTICLE 3– FEES

- 3.1 The Operational Support Provider shall receive from the OHT the annual fees for the Services as set out in Schedule B (the “**Service Fees**”). The Service Fees may be adjusted annually in accordance with section 3.4.
- 3.2 The Service Fees shall be payable quarterly. Subject to section 3.4, the OHT Members shall each be responsible for an equal share of any Service Fees for which the OHT is not funded.
- 3.3 The Operational Support Provider may only use the Service Fees for the purpose of providing the Services as set out in Schedule B.
- 3.4 The Services and the Service Fees shall be reviewed and updated on an annual basis in tandem with the OHT Budget under the OHT Collaboration Agreement. The Services and Service Fees may be amended on approval of the Oversight Committee, provided that the agreement of the Operational Support Provider shall be required for any changes to the Services or the Service Fees and where the Operational Support Provider is not in agreement the Operational Support Provider may terminate one or more Services or this Agreement in accordance with Article 4.

ARTICLE 4– TERM AND TERMINATION

- 4.1 This Agreement shall continue until terminated by mutual agreement of the OHT Members and the Operational Support Provider unless earlier terminated in accordance with the terms herein.
- 4.2 The OHT Oversight Committee or the Operational Support Provider may terminate one or more of the Services hereunder or this Agreement as a whole, without cause, upon thirty (30) days prior written notice to the OHT Oversight Committee or the Operational Support Provider, as applicable.
- 4.3 The Operational Support Provider may terminate this Agreement on notice to the OHT Oversight Committee without fault or liability:
- (a) in the event of non-payment of the Service Fees; or
 - (b) if the Ministry or any other governmental body legally objects to this Agreement, whether or not such objection is grounded in any present or future legislation, regulation or governmental policy.
- 4.4 An OHT Member that ceases to be a member of the OHT under the OHT Collaboration Agreement shall also cease to be a party to this Agreement but shall remain accountable for obligations under this Agreement prior to such date.

ARTICLE 5– CONFIDENTIALITY AND PRIVACY

- 5.1 The Operational Support Provider acknowledges that during the course of this Agreement, it will acquire OHT Confidential Information and OHT Participant

Confidential Information (collectively, "**Confidential Information**"). The Operational Support Provider undertakes to keep and to have all of its representatives, agents, directors, officers, employees and contractors keep Confidential Information in the strictest confidence and not to disclose such information to any third party, except in the performance of the Services or with the prior consent of the OHT Participant.

- 5.2 The Operational Support Provider shall not have any obligation with respect to any Confidential Information that:
- (a) was known to it prior to its being supplied by the informant, or is disclosed to the Operational Support Provider by anyone else who is acting lawfully and independently of this Agreement;
 - (b) is already in the public domain or becomes so through no breach of the recipient's obligations under this Agreement; or
 - (c) is otherwise permitted or required to be disclosed by Applicable Law.
- 5.3 Each of the OHT Members shall comply with the requirements under PHIPA as it relates to the collection, use and disclosure of PHI.
- 5.4 In providing the Services, the OHT Members hereby authorize the Operational Support Provider to act as agent of the OHT Members as it relates to the collection, use and disclosure of Personal Health Information, or as an electronic service provider, as more particularly set out at Schedule C. In acting as an agent or electronic service provider, the Operational Support Provider shall comply with the requirements of PHIPA and related regulations.
- 5.5 The OHT Members acknowledge that the Operational Support Provider is subject to Ontario's *Freedom of Information and Protection of Privacy Act* ("**FIPPA**"). Notwithstanding any provision in this Agreement, the OHT acknowledges and agrees that this Agreement, any portion hereof, and any information supplied to the Operational Support Provider may be disclosed in accordance with the provisions of FIPPA.

ARTICLE 6– INDEMNITY

- 6.1 The OHT Members (other than the Operational Support Provider) agree to jointly indemnify and hold harmless the Operational Support Provider, its officers, directors, employees, agents, former officers, directors, employees, agents and all of their respective heirs, executors, administrators, legal personal representatives, successors and assigns ("**Indemnified Parties**") from and against any and all liability, losses, costs, damages, and expenses (including legal, expert, and consulting fees), causes of action, actions, claims, demands, law suits, or other proceedings (collectively, "**Claims**") by whomever made, sustained, brought, or prosecuted, including for third-party bodily injury (including death), personal injury, and property damage, in any way based upon, occasioned by, or attributable to, anything done or omitted to be done by the Indemnified Parties in the course of the performance the Operational Support Provider obligations under this Agreement or any request and direction of the Oversight Committee in respect of the Services, save and except any acts or omissions that involve fraud or wilful misconduct on the part of the Indemnified Parties.

- 6.2 The OHT Members (other than the Operational Support Provider) agree to jointly indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special, or consequential damages, or any loss of use, revenue, or profit, by any person, entity, or organization, claimed or resulting from such Claims except any acts or omissions that involve fraud or wilful misconduct on the part of the Indemnified Parties.
- 6.3 All OHT Members shall be accountable for their respective proportionate share as set out in Schedule A for the amounts payable to the Indemnified Parties pursuant to section 6.1 and 6.2. The Operational Support Provider is also a party to this Agreement in its capacity as an OHT Member and as such has a proportionate share as set out in Schedule A in respect of which it shall not be indemnified pursuant to section 6.1 and 6.2.

ARTICLE 7- FORCE MAJEURE

- 7.1 The Operational Support Provider shall not be liable for any default or delay in the performance of its obligations hereunder if and to the extent such default or delay is caused, directly or indirectly, by any cause beyond the reasonable control of the Operational Support Provider, including but not limited to fire, flood, earthquake, elements of nature, acts of war, power or utility failures that extend beyond one day, labour disputes, strikes, lock-outs, terrorism, riots, civil disorders or orders, legislation, regulations or directives of any court, government or other public authority, including stop work orders or project closures or suspensions, made or issued as a result of a declaration of a state of emergency or as a result of the occurrence of an epidemic or pandemic (individually, each being a “**Force Majeure Event**”). In the case of a Force Majeure Event, the Operational Support Provider will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail.

ARTICLE 8 - GENERAL

- 8.1 The legal relationship between the Parties shall be that of independent contractors, and not one of joint venture, joint enterprise, partnership or agency. Except as provided herein or directed by the OHT Oversight Committee, neither Party shall gain, by virtue of this Agreement, authority to enter into any agreement or to assume or incur any obligation or responsibility for, or on behalf of, or in the name of, the other Party.
- 8.2 No Party may assign this Agreement without the prior written consent of the other Parties.
- 8.3 This Agreement shall be construed strictly in accordance with the laws of the Province of Ontario, Canada and the Parties hereby submit to the jurisdiction of the courts of Ontario.
- 8.4 Each of the provisions contained in this Agreement is distinct and severable. Any declaration by a court of competent jurisdiction of the invalidity or unenforceability of any provision or part of a provision will not affect the validity or enforceability of any other provision of this Agreement.
- 8.5 This Agreement and the OHT Collaboration Agreement constitute the entire agreement between the Operational Support Provider and the OHT Members with respect to its

subject matter and supersedes all previous agreements, communications and understandings, whether oral or written, between the Parties. Each of the Parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation or warranty or other undertaking not fully reflected in the terms of this Agreement and the OHT Collaboration Agreement.

8.6 Article 5 and Article 6 shall survive the expiry or earlier termination of this Agreement.

8.7 This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF this Agreement has been executed by the Parties hereto as of the date first above written.

**THE CORPORATION OF THE CITY OF
KAWARTHA LAKES**

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

**CITY OF KAWARTHA LAKES FAMILY
HEALTH ORGANIZATION**

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

**CITY OF KAWARTHA LAKES FAMILY
HEALTH TEAM**

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

**COMMUNITY CARE, CITY OF
KAWARTHA LAKES**

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

**KAWARTHA NORTH FAMILY HEALTH
TEAM**

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

ROSS MEMORIAL HOSPITAL

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

HALIBURTON HIGHLANDS HEALTH SERVICES

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

HALIBURTON HIGHLANDS FAMILY HEALTH ORGANIZATION

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

HALIBURTON HIGHLANDS FAMILY HEALTH TEAM

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

THE CORPORATION OF THE COUNTY OF HALIBURTON

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the organization

SCHEDULE A

OHT MEMBERS AND PROPORTIONATE INTEREST

OHT Members	Proportionate Interest
The Corporation of the City of Kawartha Lakes	10%
City of Kawartha Lakes Family Health Organization	10%
City of Kawartha Lakes Family Health Team	10%
Community Care, City of Kawartha Lakes	10%
Kawartha North Family Health Team	10%
Haliburton Highlands Health Services	10%
Haliburton Highlands Family Health Team	10%
Haliburton Highlands Family Health Organization	10%
The Corporation of the County of Haliburton	10%
Ross Memorial Hospital	10%

SCHEDULE B

SERVICES AND FEES

Department Functional Centre	Description of work provided to OHT by Operations Support Provider	Cost (i.e. salary & benefits, fixed fee, etc)
Human Resources 711202000	Administrator payroll: set up new employees, checking hours for submission each pay period, running payroll, administering deductions and T4 administration. Recruitment: job evaluation for new positions, administering recruitment postings, reference checks and offers of employment	\$4,500 pa
Finance 711151000	Financial analyst supports all transactions, reporting and record keeping. Prepares and completes financials for audit. Record retention. Leadership expertise and review for final report sign-off.	\$25,000 pa
Local IT Support 711254030	Help Desk and Analysts provide hardware/application support for KL-OHT information and telecommunication systems including hardware supported to expedite break/fix and repair. Administration of KL-OHT user accounts and system access rights and privileges as per departmental guidelines. Coordination of the KL-OHT website/ application as well as implementation, service enhancements, SMEs, ongoing maintenance and system change requests. Setup and configure client workstations/laptops. Maintain database and ensure appropriate licensing. Leadership and participation at regional digital health tables.	\$25,000 pa
Procurement/HealthPRO 711351000	Leadership and Liaison between OHT members/partners with HealthPRO	\$4,600 pa

SCHEDULE C

SERVICES AND PERSONAL HEALTH INFORMATION

1. Operational Support Provider as Agent

In its role as agent under PHIPA, Operational Support Provider will use or have access to PHI in the custody or control of the OHT Members for the following purposes:

- Collecting and using PHI for reporting to any Governmental Authority ;
- De-identifying and aggregating for reporting and planning purposes;
- Collecting and using PHI for quality of care purposes; and
- Other collections and uses as authorized by the OHT Members.

2. Operational Support Provider as Electronic Service Provider

In its role as electronic service provider, Operational Support Provider provides the following services to support OHT Members:

- Electronic Service Provider - Provides goods or services for the purpose of enabling a health information custodian to use electronic means to collect, use, modify, disclose, retain or dispose of personal health information, for example:
 - Hosting PHI on electronic health system
 - help desk
 - technical support