

**CMHA PEEL DUFFERIN BRANCH (“CMHA”)
PROJECT FUNDING AGREEMENT TERMS AND CONDITIONS**

ARTICLE 1- DEFINITIONS & INTERPRETATION

1.1 **Definitions.** In the Agreement the following terms will have the following meanings:

“**Act**” means the *Local Health System Integration Act, 2006*, and the regulations made thereunder, as it or they may be amended from time to time.

“**Agreement**” means this agreement entered into between the CMHA and the Health Services Provider (inclusive of the first page and the terms and conditions that follow), the Schedules and any instrument amending the agreement or the Schedules.

“**Applicable Law**” means all federal, provincial or municipal laws, regulation, common law, any orders, rules or by-laws that are applicable to the Health Services Provider, the Services, this Agreement and the Parties’ obligations under this Agreement during the term of this Agreement.

“**Applicable Policy**” means any orders, rules, policies, directives or standards of practice issued or adopted by the CMHA, the LHIN, the MOHLTC or other ministries or agencies of the province of Ontario that are applicable to the Health Services Provider, the Services, this Agreement, and the Parties’ obligations under this Agreement during the term of this Agreement. Without limiting the generality of the foregoing, the Applicable Policy includes the other documents identified in **Schedule D**.

“**Board**” means in respect of a corporation, the board of directors; a First Nation, the band council; and a municipality, the municipal council.

“**BPSAA**” means the *Broader Public Sector Accountability Act, 2010* and regulations made thereunder, as it and they may be amended from time to time.

“**Budget**” means the budget approved by the CMHA and appended to the Agreement as **Schedule B** and forming part of the Service Plan.

“**CEO**” means the individual accountable to the Board for the provision of the Services in accordance with the terms of this Agreement.

“**Chair**” means, in case of a corporation, the Chair of the Board; a First Nation, the Chief; and a municipality, the Mayor, or such other person properly authorized by the Board or under the Applicable Law.

“**CFMA**” means the *Commitment to the Future of Medicare Act, 2004*, and the regulations made thereunder, as it and they may be amended from time to time.

“**Compliance Declaration**” means a compliance declaration substantially in the form set out in **Schedule G**.

“Confidential Information” means information that is (i) marked or otherwise identified as confidential by the disclosing Party at the time the information is provided to the receiving Party; and (ii) eligible for exclusion from disclosure at a public board meeting in accordance with section 9 of the Act. Confidential Information does not include information that (a) was known to the receiving Party prior to receiving the information from the disclosing Party; (b) has become publicly known through no wrongful act of the receiving Party; or (c) is required to be disclosed by law, provided that the receiving Party provides Notice in a timely manner of such requirement to the disclosing Party, consults with the disclosing Party on the proposed form and nature of the disclosure, and ensures that any disclosure is made in strict accordance with Applicable Law.

“Conflict of Interest” includes any situation or circumstance where: in relation to the performance of its obligations under this Agreement the Health Services Provider, a member of the Health Services Provider’s Board, or any person employed by the Health Services Provider who has the capacity to influence the Health Services Provider’s decision, has other commitments, relationships or financial interests that (i) could or could be seen to interfere with the Health Services Provider’s objective, unbiased and impartial exercise of its judgment; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its obligations under this Agreement.

“Days” means calendar days.

“Effective Date” means the commencement date of the Term, as noted on the first page of this Agreement.

“e-Health” means the coordinated and integrated use of electronic systems, information and communication technologies to facilitate the collection, exchange and management of personal health information in order to improve the quality, access, productivity and sustainability of the healthcare system.

“Funding” means the amounts of money provided by the CMHA to the Health Services Provider pursuant to this Agreement and as set out in detail on **Schedule F**.

“Funding Year” means in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following March 31, and in the case of Funding Years subsequent to the first Funding Year, the period commencing on the date that is April 1 following the end of the previous Funding Year and ending on the following March 31.

“HST” means harmonized sales tax pursuant to the *Excise Tax Act* (Canada) and shall include any applicable tax in addition to or in lieu thereof.

“Health Services Provider” means the health services provider set out on the first page of this Agreement.

“Indemnified Parties” means the CMHA, the LHIN, their respective officers, employees, directors, independent contractors, subcontractors, agents,

successors and assigns and her Majesty the Queen in Right of Ontario and her Ministers, appointees and employees, independent contractors, subcontractors, agents and assigns. Indemnified Parties also includes any person participating on behalf of the CMHA and/or the LHIN in a Review.

“Interest Income” means interest earned on the Funding.

“LHIN” means the Central West Local Health Integration Network.

“MOHLTC” means the Minister or the Ministry of Health and Long Term Care, as is appropriate in the context.

“Notice” means any notice or other communication required to be provided pursuant to this Agreement, the Act or the CFMA.

“Party” means either of the CMHA or the Health Services Provider and **“Parties”** mean both of the CMHA and the Health Services Provider.

“Performance Agreement” means an agreement between a Health Services Provider and its CEO that requires the CEO to perform in a manner that enables the Health Services Provider to achieve the terms of this Agreement and any additional performance improvement targets set out in the Health Services Provider’s annual quality improvement plan under the *Excellent Care for All Act, 2010*.

“Performance Factor” means any matter that could or will significantly affect a Party’s ability to fulfill its obligations under this Agreement.

“Performance Standards and Conditions” means the performance standards and conditions described in **Schedule E**.

“Personnel and Volunteers” means the controlling shareholders (if any), directors, officers, employees, agents, volunteers and other representatives of the Health Services Provider. In addition to the foregoing, the Personnel and Volunteers shall include the contractors and subcontractors of the Health Services Provider and their respective shareholders, directors, officers, employees, agents, volunteers and other representatives.

“Project” means the project identified on the first page of this Agreement.

“Reports” means the reports described in **Schedule C** as well as any other reports or information required to be provided under the Act or this Agreement.

“Review” means a financial or operational audit, investigation, inspection or other form of review requested or required by the CMHA and/or the LHIN under the terms of the Act or this Agreement, but does not include the annual audit of the Health Services Provider’s financial statements.

“Schedule” means any one of, and **“Schedules”** mean any two or more, as the context requires, of the schedules appended to this Agreement including the following:

- Schedule A: Description of Services
- Schedule B: Service Plan
- Schedule C: Reports
- Schedule D: Directives; Guidelines and Policies
- Schedule E: Performance Standards and Conditions
- Schedule F: Funding Amounts
- Schedule G: Declaration of Compliance

“**Service Accountability Agreement**” means the service accountability agreement effective as of the 1st day of April, 2017 between the LHIN and the CMHA.

“**Service Plan**” means the Operating Plan and Budget appended as **Schedule B**.

“**Services**” means the services and deliverables delivered by the Health Services Provider with respect to the Project and as described in detail in **Schedule A**.

“**Term**” means the period of time noted as term on the first page of this Agreement.

- 1.2 **Interpretation.** Words in the singular include the plural and vice-versa. Words in one gender include both genders. The headings do not form part of the Agreement. They are for convenience of reference only and will not affect the interpretation of the Agreement. Terms used in the Schedules shall have the meanings set out in this Agreement unless separately and specifically defined in a Schedule, in which case the definition in the Schedule shall govern for the purposes of that Schedule.

ARTICLE 2 - NATURE OF THE AGREEMENT

- 2.1 **A Service Accountability Agreement.** This Agreement is a service accountability agreement for the purposes of subsection 20(1) of the Act and Part III of the CFMA.
- 2.2 **Prior Agreements.** The Parties acknowledge and agree that all prior agreements respecting the Services terminated on March 31, 2017. Notwithstanding the foregoing, the provisions contained in such agreements that by their terms continue beyond March 31, 2017 remain in effect.

ARTICLE 3 - PROVISION OF SERVICES

- 3.1 **Provision of Services.**
- (a) The Health Services Provider will provide the Services in accordance with, and otherwise comply with:
- (i) the terms of this Agreement, including, without limitation, the Service Plan;

- (ii) the Applicable Law; and
- (iii) the Applicable Policy.

(b) When providing the Services, the Health Services Provider will meet the Performance Standards and Conditions.

(c) Unless otherwise provided in this Agreement, the Health Services Provider will not reduce, stop, start, expand, cease to provide or transfer the provision of the Services or change its Service Plan except with the prior written consent of the CMHA and the LHIN (through the CMHA).

(d) Unless the Health Services Provider is a community care access centre, the Health Services Provider will not restrict or refuse the provision of Services to an individual, directly or indirectly, based on the geographic area in which the person resides in Ontario.

3.2 **Subcontracting for the Provision of Services.**

(a) The Health Services Provider agrees that the Health Services Provider will not subcontract the fulfillment of all or any part of the Health Services Provider's obligations under this Agreement without the prior written consent of the CMHA, which consent will be in the sole discretion of the CMHA and may be arbitrarily withheld or denied.

(b) The Health Services Provider agrees to permit the LHIN or its authorized representatives, to audit the Health Services Provider in respect of this Agreement if the LHIN or its authorized representatives determines that such an audit would be necessary to confirm that CMHA has complied with the terms of the Service Accountability Agreement or to confirm that the Health Services Provider has complied with the terms of this Agreement.

(c) Nothing contained in this Agreement will create a contractual relationship between any of the Health Services Provider or its directors, officers, employees, agents, partners, affiliates or volunteers and the LHIN.

3.3 **Conflict of Interest.** The Health Services Provider will (a) provide the Services and otherwise fulfill its obligations under this Agreement, without an actual, potential or perceived Conflict of Interest; (b) disclose to the CMHA without delay any situation that a reasonable person would interpret as an actual, potential or perceived Conflict of Interest; and (c) comply with any requirements prescribed by the LHIN and/or CMHA to resolve any Conflict of Interest.

3.4 **E-Health/Information Technology Compliance.** The Health Services Provider agrees to:

(a) assist the CMHA to implement provincial e-Health priorities hereafter in accordance with the Service Accountability Agreement and this Agreement, as amended from time to time;

(b) comply with any technical and information management standard, including those related to data, architecture, technology, privacy and security set for health service providers by the MOHLTC, eHealth Ontario, the LHIN or the CMHA within the timeframes set by the MOHLTC, eHealth Ontario, the LHIN or the CMHA, as the case may be;

(c) implement and use the approved provincial e-Health solutions identified in the LHIN e-Health plan; and

(d) implement technology solutions that are compatible or interoperable with the provincial blueprint and with the LHIN e-Health plan.

3.5 **Policies, Guidelines Directives and Standards.** Either the CMHA, the LHIN or the MOHLTC will give the Health Services Provider notice of any amendments to the manuals, guidelines or policies identified in **Schedule D**. Amendments will be effective on the first day of April following the receipt of the notice or on such other date as may be advised by the CMHA, the LHIN or the MOHLTC, as the case may be. By signing a copy of this Agreement the Health Services Provider acknowledges that it has a copy of the documents identified in **Schedule D**.

ARTICLE 4 - FUNDING

4.1 **Funding.** Subject to the terms of this Agreement and in accordance with the applicable provisions thereof, the CMHA:

(i) will provide the Funding to the Health Services Provider for the purpose of providing or ensuring the provision of the Services;

(ii) may pro-rate the Funding to the date on which the Agreement is signed, if that date is after April 1; and

(iii) will provide the Funding in regular installments, once or twice monthly, over the Term of the Agreement, into an account designated by the Health Services Provider, provided that the account resides at a Canadian financial institution and is in the name of the Health Services Provider.

4.2 **Limitation on Payment of Funding.** Despite section 4.1, the CMHA:

(i) will not provide any Funding to the Health Services Provider until the Agreement is fully executed;

(ii) will not provide any Funding to the Health Services Provider until the Health Services Provider meets the insurance requirements described in section 11.4;

(iii) will not be required to continue to provide Funding in the event the Health Services Provider breaches any of its obligations under this Agreement, until the breach is remedied to the CMHA's satisfaction; and

(iv) upon notice to the Health Services Provider, may adjust the amount of

Funding it provides to the Health Services Provider in any Funding Year based upon the CMHA's assessment of the information contained in the Reports.

4.3 **Appropriation.** Funding under this Agreement is conditional upon an appropriation of moneys by the Legislature of Ontario to the MOHLTC, funding of the LHIN by the MOHLTC pursuant to the Act and funding of CMHA by the LHIN pursuant to the terms of the Service Accountability Agreement. If the CMHA does not receive its anticipated funding, the CMHA will not be obligated to make the payments required by this Agreement and the CMHA may terminate the Agreement in accordance with section 12.1(b).

4.4 **Additional Funding.**

(a) Unless the CMHA has agreed to do so in writing, the CMHA is not required to provide additional funds to the Health Services Provider for providing additional Services or for exceeding the requirements of **Schedule E**.

(b) The Health Services Provider may request additional funding by submitting a proposal to amend its Service Plan. The Health Services Provider will abide by all decisions of the CMHA with respect to a proposal to amend the Service Plan and will make whatever changes are requested or approved by the CMHA. The Service Plan will be amended to include any approved additional funding.

4.5 **Conditions of Funding.**

(a) The Health Services Provider will:

- (i) fulfill all obligations in this Agreement;
- (ii) use the Funding only for the purpose of providing the Services in accordance with the Applicable Law, Applicable Policy and the terms of this Agreement;
- (iii) spend the Funding only in accordance with the Service Plan; and
- (iv) maintain an Annual Balanced Budget, as defined below.

(b) “**Annual Balanced Budget**” means that, in each fiscal year of the term of this Agreement, the total expenses of the Health Services Provider are less than or equal to the total revenue, from all sources, of the Health Services Provider.

(c) The CMHA may impose such additional terms or conditions on the use of the Funding which it considers appropriate for the proper expenditure and management of the Funding.

4.6 **Interest.**

(a) If the CMHA provides the Funding to the Health Services Provider prior to the Health Services Provider's immediate need for the Funding, the Health

Services Provider shall place the Funding in an interest bearing account in the name of the Health Services Provider at a Canadian financial institution.

(b) Interest Income must be used, within the fiscal year in which it is received, to provide the Services.

(c) Interest Income will be reported to the CMHA and is subject to a year end reconciliation. In the event that some or all of the Interest Income is not used to provide the Services,

- (i) the CMHA may deduct the amount equal to the unused Interest Income from any further Funding instalments under this or any other agreement with the Health Services Provider; and/or
- (ii) the CMHA may require the Health Services Provider to pay an amount equal to the unused Interest Income to the Ministry of Finance.

4.7 Rebates, Credits and Refunds. The Health Services Provider:

- (i) acknowledges that rebates, credits and refunds it anticipates receiving from the use of the Funding have been incorporated in its Budget;
- (ii) agrees that it will advise the CMHA if it receives any unanticipated rebates, credits and refunds from the use of the Funding, or from the use of funding received from either the CMHA, the LHIN or the MOHLTC in years prior to this Agreement that was not recorded in the year of the related expenditure; and
- (iii) agrees that all rebates, credits and refunds referred to in (ii) will be considered Funding in the year that such rebates, credits and/or refunds are received, regardless of the year to which they relate.

4.8 Procurement of Goods and Services.

(a) If the Health Services Provider is subject to the procurement provisions of the BPSAA, the Health Services Provider will abide by all directives and guidelines issued by the Management Board of Cabinet that are applicable to the Health Services Provider to the BPSAA.

(b) If the Health Services Provider is not subject to the procurement provisions of the BPSAA, the Health Services Provider will have a procurement policy in place that requires the acquisition of supplies, equipment or services valued at over \$25,000 through a competitive process that ensures the best value for funds expended. If the Health Services Provider acquires supplies, equipment or services with the Funding it will do so through a process that is consistent with this policy.

4.9 Disposition. The Health Services Provider will not, without the CMHA's prior written consent, sell, lease or otherwise dispose of any assets purchased with Funding, the cost of which exceeded \$25,000 at the time of purchase.

ARTICLE 5 - REPAYMENT AND RECOVERY OF FUNDING

5.1 Repayment and Recovery.

(a) **At the End of a Funding Year.** If, in any Funding Year, the Health Services Provider has not spent all of the Funding the CMHA will require the repayment of the unspent Funding.

(b) **On Termination or Expiration of the Agreement.** Upon termination or expiry of this Agreement, the CMHA will require the repayment of any Funding remaining in the possession or under the control of the Health Services Provider and the payment of an amount equal to any Funding the Health Services Provider used for purposes not permitted by this Agreement.

(c) **On Reconciliation and Settlement.** If the year end reconciliation and settlement process demonstrates that the Health Services Provider received Funding in excess of its entitlement, the CMHA will require the repayment of the excess Funding.

(d) **As a Result of Performance Management or System Planning.** If Services are adjusted, as a result of the performance management or system planning processes, the CMHA may adjust the Funding, require the repayment of excess Funding and/or adjust the amount of any future funding installments accordingly. The Health Services Provider acknowledges that any upwards adjustments in the Funding will be conditional upon the LHIN making a corresponding adjustment in its funding to the CMHA.

(e) **In the Event of Forecasted Surpluses.** If the Health Services Provider is forecasting a surplus, the CMHA may adjust the amount of Funding to be paid, require the repayment of excess Funding and/or adjust the amount of any future funding installments accordingly.

(f) **On the Request of the CMHA.** The Health Services Provider will, at the request of the CMHA, repay the whole or any part of the Funding, or an amount equal thereto if the Health Services Provider:

- (i) has provided false information to the CMHA knowing it to be false;
- (ii) breaches a term or condition of this Agreement and does not, within 30 Days after receiving from the CMHA written notice of the breach take reasonable steps to remedy the breach; or
- (iii) breaches any Applicable Law that directly relates to the provision of, or ensuring the provision of, the Services.

(g) Subsections 5.1(c) and (d) do not apply to Funding already expended properly in accordance with this Agreement. The CMHA will, at its sole discretion, and without liability or penalty, determine whether the Funding has been expended properly in accordance with this Agreement

- 5.2 **Provision for the Recovery of Funding.** The Health Services Provider will make reasonable and prudent provision for the recovery by the CMHA of any Funding for which the conditions of Funding set out in subsection 4.5 are not met and will hold this Funding in accordance with the provisions of subsection 4.6 until such time as reconciliation and settlement has occurred with the CMHA. Interest earned on Funding will be reported and recovered in accordance with subsection 4.6.
- 5.3 **Settlement and Recovery of Funding for Prior Years.**
- (a) The Health Services Provider acknowledges and agrees that settlement and recovery of Funding can occur up to seven years after the provision of Funding.
- (b) Recognizing the transition of responsibilities from the MOHLTC to the LHIN and by the LHIN to CMHA, the Health Services Provider agrees that if the Parties are directed in writing to do so by the MOHLTC or the LHIN, the CMHA will settle and recover funding provided by the MOHLTC to Health Services Provider prior to the transition of the Funding for the Services to the LHIN, provided that such settlement and recovery occurs within seven years of the provision of the funding by the MOHLTC. All such settlements and recoveries will be subject to the terms applicable to the original provision of funding.
- 5.4 **Debt Due.**
- (a) If the CMHA requires the re-payment by the Health Services Provider of any Funding, the amount required will be deemed to be a debt owing to the Crown by the Health Services Provider. The CMHA may adjust future funding instalments to recover the amounts owed or may, at its discretion direct the Health Services Provider to repay the amount owing to the Crown and the Health Services Provider shall comply immediately with any such direction.
- (b) All amounts repayable to the Crown will be paid by cheque payable to the "Ontario Minister of Finance" and mailed or delivered to the CMHA at the address provided in section 13.1.
- 5.5 **Interest Rate.** The CMHA may charge the Health Services Provider interest on any amount owing by the Health Services Provider at the then current interest rate charged by the Province of Ontario on accounts receivable.

ARTICLE 6.0 - PLANNING & INTEGRATION

- 6.1 **Planning for Future Years.**
- (a) **Advance Notice.** The CMHA will give prior notice to the Health Services Provider of the date by which a Community Accountability Planning Submission ("**CAPS**"), approved by the Health Services Provider's governing body, must be submitted to the CMHA. The CMHA will give such notice as soon as possible upon receipt of same from the LHIN.

(b) **Multi-Year Planning.** The CAPS will be in a form acceptable to the CMHA and the LHIN (through the CMHA) and may be required to incorporate (i) prudent multi-year financial forecasts; (ii) plans for the achievement of performance targets; and (iii) realistic risk management strategies. It will be aligned with the LHIN's then current Integrated Health Service Plan and will reflect local LHIN and CMHA priorities and initiatives. If the LHIN has provided multi-year planning targets for the CMHA, the CMHA will communicate same to the Health Services Provider and the CAPS will reflect such planning targets.

(c) **Multi-year Planning Targets. Schedule B** may reflect an allocation for the first Funding Year of this Agreement as well as planning targets for up to two additional years, consistent with the Term of the Agreement. In such an event,

(i) the Health Services Provider acknowledges that if it is provided with planning targets, these targets are (A) targets only, (B) provided solely for the purposes of planning, (C) are subject to confirmation, and (D) may be changed at the discretion of the CMHA or the LHIN (through the CMHA). The Health Services Provider will proactively manage the risks associated with multi-year planning and the potential changes to the planning targets; and

(ii) the CMHA agrees that it will communicate any changes to the planning targets as soon as reasonably possible upon receipt of same from the LHIN.

(d) **Project Funding Agreements.** The Health Services Provider acknowledges that if the CMHA and the Health Services Provider enter into negotiations for a subsequent project funding agreement, subsequent funding may be interrupted if the subsequent agreement is not executed on or before the expiration date of this Agreement.

6.2 **Community Engagement & Integration Activities.**

(a) **Community Engagement.** The Health Services Provider will engage the community of diverse persons and entities in the area where it provides health services when setting priorities for the delivery of health services and when developing plans for submission to the CMHA including but not limited to CAPS and integration proposals.

(b) **Integration.** The Health Services Provider will, separately and in conjunction with the LHIN, the CMHA and other health service providers, identify opportunities to integrate the services of the local health system to provide appropriate, co-coordinated, effective and efficient services.

(c) **Reporting.** The Health Services Provider will report on its community engagement and integration activities as requested by the CMHA and/or the LHIN (through the CMHA), and in any event, in its year end report to the CMHA.

6.3 **Planning and Integration Activity Pre-proposals.**

(a) **General.** A pre-proposal process has been developed to (i) reduce the

costs incurred by the Health Services Provider when proposing operational or service changes; (ii) assist the Health Services Provider to carry out its statutory obligations; and (iii) enable an effective and efficient response by the CMHA. Subject to specific direction from the CMHA and/or LHIN (through the CMHA), this pre-proposal process will be used in the following instances:

- (i) the Health Services Provider is considering an integration or an integration of services, as defined in the Act, between the Health Services Provider and another person or entity; or
- (ii) the Health Services Provider is proposing to reduce, stop, start, expand or transfer the location of Services, which for certainty includes: the transfer of Services from the Health Services Provider to another person or entity whether within or outside of the LHIN, and the relocation or transfer of Services from one of the Health Services Provider's sites to another of the Health Services Provider's sites whether within or outside of the LHIN;
- (iii) to identify opportunities to integrate the services of the local health system, other than those identified in (i) or (ii) above; or
- (iv) if requested by the CMHA and/or the LHIN (through the CMHA).

(b) **CMHA Evaluation of the Pre-proposal.** Use of the pre-proposal is not formal Notice of a proposed integration under s. 27 of the Act. CMHA consent to develop the project concept outlined in a pre-proposal does not constitute approval to proceed with the project. Nor does CMHA consent to develop a project concept presume the issuance of a favourable decision, should such a decision be required by section 25 or 27 of the Act. Following the CMHA's review and evaluation, the Health Services Provider may be invited to submit a detailed proposal and a business plan for further analysis. Guidelines for the development of a detailed proposal and business case will be provided by the CMHA and/or the LHIN (through the CMHA).

6.4 **Proposing Integration Activities in the Planning Submission.** No integration activity described in subsection 6.3 may be proposed in a CAPS unless the CMHA has consented, in writing, to its inclusion pursuant to the process set out in subsection 6.3(b).

6.5 **Definitions.** In this section 6.0 the terms "integrate", "integration" and "services" have the same meanings attributed to them in subsection 2(1) and section 23 respectively of the Act, as it and they may be amended from time to time. Specifically:

- (i) "service" includes,
 - (a) a service or program that is provided directly to people,
 - (b) a service or program, other than a service or program described in clause (a), that supports a service or program described in that clause, or
 - (c) a function that supports the operations of a person or entity that provides a service or program described in clause (a) or (b).

- (ii) **“integrate”** includes,
 - (a) to co-ordinate services and interactions between different persons and entities,
 - (b) to partner with another person or entity in providing services or in operating,
 - (c) to transfer, merge or amalgamate services, operations, persons or entities,
 - (d) to start or cease providing services,
 - (e) to cease to operate or to dissolve or wind up the operations of a person or entity,

and **“integration”** has a similar meaning.

ARTICLE 7.0 – PERFORMANCE

7.1 Performance. The Parties will strive to achieve on-going performance improvement. They will address performance improvement in a proactive, collaborative and responsive manner.

7.2 Performance Factors.

- (a) Each Party will notify the other Party of the existence of a Performance Factor, as soon as reasonably possible after the Party becomes aware of the Performance Factor. The notice will:
 - (i) describe the Performance Factor and its actual or anticipated impact;
 - (ii) include a description of any action the Party is undertaking, or plans to undertake, to remedy or mitigate the Performance Factor;
 - (iii) indicate whether the Party is requesting a meeting to discuss the Performance Factor; and
 - (iv) address any other issue or matter the Party wishes to raise with the other Party.
- (b) The recipient Party will provide a written acknowledgment of receipt of the notice within seven Days of the date on which the Notice was received (**“Date of the Notice”**).
- (c) Where a meeting has been requested under 7.2(a) (iii), the Parties agree to meet and discuss the Performance Factors within fourteen Days of the Date of the Notice, in accordance with the provisions of subsection 7.3

7.3 Performance Meetings.

- (a) During a meeting on performance, the Parties will:
 - (i) discuss the causes of a Performance Factor;
 - (ii) discuss the impact of a Performance Factor on the local health

- (iii) system and the risk resulting from non-performance; and determine the steps to be taken to remedy or mitigate the impact of the Performance Factor (the “**Performance Improvement Process**”).

7.4 **The Performance Improvement Process.**

- (a) The Performance Improvement Process will focus on the risks of non-performance and problem-solving. It may include one or more of the following actions:
 - (i) a requirement that the Health Services Provider develop and implement an improvement plan acceptable to the CMHA and the LHIN;
 - (ii) the conduct of a Review;
 - (iii) a revision and amendment of the Health Services Provider’s obligations; and/or
 - (iv) an in-year, or year end, adjustment to the Funding;among other possible means of responding to the Performance Factor or improving performance.
- (b) Any Performance Improvement Process begun under a prior project funding agreement that was not completed under the prior agreement will continue under this Agreement. Any performance improvement required by the CMHA under a prior project funding agreement will be deemed to be a requirement under this Agreement until fulfilled or waived by the CMHA.

ARTICLE 8 - REPORTING, ACCOUNTING AND REVIEW

8.1 **Reporting.**

- (a) **Generally.** The LHIN’s and thus the CMHA’s ability to enable the LHIN’s local health system to provide appropriate, coordinated, effective and efficient health services, as contemplated by the Act, is heavily dependent on the timely collection and analysis of accurate information. The Health Services Provider acknowledges that the timely provision of accurate information related to the Health Services Provider, and its performance of its obligations under this Agreement, is under the Health Services Provider’s control.
- (b) **Specific Obligations.** The Health Services Provider:
 - (i) will provide to the CMHA, or to such other entity as the CMHA may direct, in the form and within the time specified by the CMHA, the Reports, other than personal health information as defined in subsection 31(5) of the CFMA, that (i) the CMHA requires for the purposes of exercising its powers and duties under this Agreement, the Act or for the purposes that are prescribed under the Act, (ii) the LHIN may require for the purposes of exercising its powers and duties under the Service Accountability Agreement, the Act or for the purposes that are prescribed under the Act, or (iii) that may be

requested under the CFMA. Without limiting any other obligations of the Health Services Provider elsewhere in this Agreement, the Health Services Provider will provide to the CMHA:

- a. Monthly financial and OHRs data, (1) submitted no later than 10th day of the following month, (2) in the form and content required by the CMHA and the LHIN (through the CMHA) from time to time and will include, without limitation, salaries, hours of work and benefits by occupational classes. A report template may be provided by the CMHA in that regard to be used by the Health Services Provider;
 - b. statistical data reports (CDS) semi-annually in each and every year of the Term on or before the 13th day of October and the 15th day of April, in the form and content currently used or such other form or content as may be required by the CMHA and the LHIN (through the CMHA) from time to time. Any changes to the reporting form or content will be communicated by the CMHA as soon as practically possible after receiving notice from the LHIN;
- (ii) will fulfill the specific reporting requirements set out in **Schedule C**;
 - (iii) will ensure that every Report is complete, accurate, signed on behalf of the Health Services Provider by an authorized signing officer where required and provided in a timely manner and in a form satisfactory by the CMHA; and
 - (iv) agrees that every Report submitted to the CMHA by or on behalf of the Health Services Provider, will be deemed to have been authorized by the Health Services Provider for submission.

(c) **French Language Services.** If the Health Services Provider is required to provide services to the public in French under the provisions of the *French Language Services Act*, the Health Services Provider will be required to submit a French language services report to the CMHA. If the Health Services Provider is not required to provide services to the public in French under the provisions of the *French Language Service Act*, it will be required to provide a report to the CMHA that outlines how the Health Services Provider addresses the needs of its local Francophone community.

(d) **Declaration of Compliance.** Within 90 days of the Health Services Provider's fiscal year-end, the Board will issue a Compliance Declaration declaring that the Health Services Provider has complied with the terms of this Agreement. The form of the declaration is set out in **Schedule G** and may be amended by the CMHA from time to time throughout the term of this Agreement. The Health Services Provider agrees that the CMHA may rely on this Compliance Declaration in its reporting to the LHIN under the Services Accountability Agreement.

(e) **Financial Reductions.** Notwithstanding any other provision of this Agreement, and at the discretion of the CMHA, the Health Services Provider may

be subject to a financial reduction in any of the following circumstances:

- (i) its CAPS is received after the due date;
- (ii) its CAPS is incomplete;
- (iii) the quarterly performance reports are not provided when due; or
- (iv) financial and/or clinical data requirements are late, incomplete or inaccurate,

where the errors or delay were not as a result of CMHA actions or inaction. If assessed, the financial reduction will be as follows:

- (i) if received within 7 days after the due date, incomplete or inaccurate, the financial penalty will be the greater of (i) a reduction of 0.02 percent (0.02%) of the Funding; or (ii) two hundred and fifty dollars (\$250.00); and
- (ii) for every full or partial week of non-compliance thereafter, the rate will be one half of the initial reduction.

8.2 **Reviews.**

(a) During the term of this Agreement and for seven (7) years after the term of this Agreement, the Health Services Provider agrees that the LHIN, the CMHA or their respective authorized representatives may conduct a Review of the Health Services Provider to confirm the Health Services Provider's fulfillment of its obligations under this Agreement. For these purposes the LHIN, the CMHA or their respective authorized representatives may, upon twenty-four hours' Notice to the Health Services Provider and during normal business hours enter upon the Health Services Provider's premises to:

- (i) inspect and copy any financial records, invoices and other finance-related documents, other than personal health information as defined in subsection 31(5) of the CFMA, in the possession or under the control of the Health Services Provider which relate to the Funding or otherwise to the Services; and
- (ii) inspect and copy non-financial records, other than personal health information as defined in subsection 31(5) of the CFMA, in the possession or under the control of the Health Services Provider which relate to the Funding, the Services or otherwise to the performance of the Health Services Provider under this Agreement.

(b) The cost of any Review will be borne by the Health Services Provider if the Review: (1) was made necessary because the Health Services Provider did not comply with a requirement under the Act or this Agreement; or (2) indicates that the Health Services Provider has not fulfilled its obligations under this Agreement, including its obligations under the Applicable Law and Applicable Policy.

(c) To assist in respect of the rights set out in (a) above, the Health Services Provider shall disclose any information requested by the CMHA and/or the LHIN or their respective authorized representatives, and shall do so in a form requested by the CMHA and/or the LHIN or their respective authorized representatives.

(d) The Health Services Provider may not commence a proceeding for damages or otherwise against any person with respect to any act done or omitted to be done, any conclusion reached or report submitted that is done in good faith in respect of a Review.

(e) Health Services Provider's obligations under Section 8.2 will survive any termination or expiration of the Agreement.

8.3 Document Retention and Record Maintenance. The Health Services Provider will:

(i) retain all records (as that term is defined in the *Freedom of Information and the Protection of Privacy Act*) related to the Health Services Provider's performance of its obligations under this Agreement for seven (7) years after the termination or expiration of the term of the Agreement. The Health Services Provider's obligations under this paragraph will survive any termination or expiry of the Agreement;

(ii) keep all financial records, invoices and other finance-related documents relating to the Funding or otherwise to the Services in a manner consistent with either generally accepted accounting principles or international financial reporting standards as advised by the Health Services Provider's auditor; and

(iii) keep all non-financial documents and records relating to the Funding or otherwise to the Services in a manner consistent with all Applicable Law.

8.4 Disclosure of Information.

(a) **FIPPA.** The Health Services Provider acknowledges that the LHIN and the CMHA is bound by the *Freedom of Information and Protection of Privacy Act* and that any information provided to the LHIN and/or CMHA in connection with this Agreement may be subject to disclosure in accordance with the *Freedom of Information and Protection of Privacy Act*.

(b) **Confidential Information.** The Parties will treat Confidential Information as confidential and will not disclose Confidential Information except with the consent of the disclosing Party or as permitted or required under the *Freedom of Information and Protection of Privacy Act* or the *Personal Health Information Protection Act*, the Act, court order, subpoena or other Applicable Law. Notwithstanding the foregoing, the LHIN and/or CMHA may disclose information that the CMHA collects under this Agreement in accordance with the Act and the CFMA.

8.5 Transparency. The Health Services Provider will post a copy of this Agreement and each Compliance Declaration submitted to the CMHA during the term of this Agreement in a conspicuous and easily accessible public place at its sites of operations to which this Agreement applies and on its public website, if the Health Services Provider operates a public website.

- 8.6 **Auditor General.** For greater certainty the LHIN's and the CMHA's respective rights under this article are in addition to any rights provided to the Auditor General under the *Auditor General Act* (Ontario).

ARTICLE 9 - ACKNOWLEDGEMENT OF CMHA SUPPORT

- 9.1 **Publication.** For the purposes of this Article 9, the term "**publication**" means any material on or concerning the Services that the Health Services Provider makes available to the public, regardless of whether the material is provided electronically or in hard copy. Examples include a web-site, an advertisement, a brochure, promotional documents and a report. Materials that are prepared by the Health Services Provider in order to fulfill its reporting obligations under this Agreement are not included in the term "publication".

9.2 **Acknowledgment of Funding Support.**

- (a) The Health Services Provider agrees all publications will include:
 - (i) an acknowledgment of the Funding provided by the LHIN and the Government of Ontario through the CMHA. Prior to including an acknowledgment in any publication, the Health Services Provider will obtain the CMHA's and the LHIN's approval of the form of acknowledgment (the LHIN's approval to be obtained through the CMHA). The LHIN and/or the CMHA may, at its discretion, decide that an acknowledgment isn't necessary; and
 - (ii) a statement indicating that the views expressed in the publication are the views of the Health Services Provider and do not necessarily reflect those of the CMHA, the LHIN or the Government of Ontario.
- (b) The Health Services Provider shall not use any insignia or logo of Her Majesty the Queen in Right of Ontario, including those of the LHIN, or those of the CMHA, unless it has received the prior written permission of the LHIN and the CMHA, as the case may be, to do so (the LHIN's permission to be obtained through the CMHA).

ARTICLE 10 – REPRESENTATIONS, WARRANTIES AND COVENANTS

- 10.1 **General.** The Health Services Provider represents, warrants and covenants that:
- (i) it is, and will continue for the term of the Agreement to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
 - (ii) it has the experience and expertise necessary to carry out the Services;
 - (iii) it holds all permits, licences, consents, intellectual property rights and authorities necessary to perform its obligations under this Agreement;

- (iv) all information (including, without limitation, information relating to any eligibility requirements for Funding) that the Health Services Provider provided to the CMHA in support of its request for Funding was true and complete at the time the Health Services Provider provided it, and will, subject to the provision of Notice otherwise, continue to be true and complete for the term of the Agreement; and
- (v) it does, and will continue for the term of the Agreement, to operate in compliance with all Applicable Law and Applicable Policy, including, without limitation, observing where applicable, the requirements of the *Corporations Act* or successor legislation and the Health Services Provider's by-laws in respect of, but not limited to, the holding of board meetings, the requirements of quorum for decision-making, the maintenance of minutes for all board and committee meetings and the holding of members' meetings.

10.2 **Execution of Agreement.** The Health Services Provider represents and warrants that:

- (i) it has the full power and authority to enter into the Agreement; and
- (ii) it has taken all necessary actions to authorize the execution of the Agreement.

10.3 **Governance.**

(a) The Health Services Provider represents warrants and covenants that it has established, and will maintain for the period during which the Agreement is in effect, policies and procedures:

- (i) that set out a code of conduct for, and that identify the ethical responsibilities for all persons at all levels of the Health Services Provider's organization;
- (ii) to ensure the ongoing effective functioning of the Health Services Provider;
- (iii) for effective and appropriate decision-making;
- (iv) for effective and prudent risk-management, including the identification and management of potential, actual and perceived conflicts of interest;
- (v) for the prudent and effective management of the Funding;
- (vi) to monitor and ensure the accurate and timely fulfillment of the Health Services Provider's obligations under this Agreement and compliance with the Act;
- (vii) to enable the preparation, approval and delivery of all Reports;
- (viii) to address complaints about the provision of Services, the management or governance of the Health Services Provider; and

- (ix) to deal with such other matters as the Health Services Provider considers necessary to ensure that the Health Services Provider carries out its obligations under this Agreement.

- (b) The Health Services Provider represents and warrants that:
 - (i) the Health Services Provider has, or will have within 60 days of the execution of this Agreement, a Performance Agreement with its CEO that ties the CEO's compensation plan to the CEO's performance;
 - (ii) it will take all reasonable care to ensure that its CEO complies with the Performance Agreement;
 - (iii) it will enforce the Health Services Provider's rights under the Performance Agreement; and
 - (iv) any compensation award provided to the CEO during the term of this Agreement will be pursuant to an evaluation of the CEO's performance under the Performance Agreement and the CEO's achievements of performance goals and performance improvement targets and in compliance with Applicable Laws, where "compensation award" means all forms of payment, benefits and perquisites paid or provided, directly or indirectly, to or for the benefit of a CEO who performs duties and functions that entitle him or her to be paid.

10.4 Funding, Services and Reporting. The Health Services Provider represents, warrants and covenants that:

- (i) the Funding is, and will continue to be, used only to provide the Services in accordance with the terms of this Agreement;
- (ii) the Services are and will continue to be provided;
 - a. by persons with the expertise, professional qualifications, licensing and skills necessary to complete their respective tasks; and
 - b. in compliance with Applicable Law and Applicable Policy;
- (iii) every Report is accurate and in full compliance with the provisions of this Agreement, including any particular requirements applicable to the Report and any material change to a Report will be communicated to the CMHA immediately.

10.5 Supporting Documentation. Upon request, the Health Services Provider will provide the CMHA with proof of the matters referred to in this Article.

ARTICLE 11 - LIMITATION OF LIABILITY, INDEMNITY & INSURANCE

- 11.1 **Limitation of Liability.** The Indemnified Parties will not be liable to the Health Services Provider or any of the Health Services Provider's Personnel and Volunteers for costs, losses, claims, liabilities and damages howsoever caused (including, without limitation, any incidental, indirect, special or consequential damages, injury or any loss of use or profit of the Health Services Provider) arising out of or in any way related to the Services or otherwise in connection with this Agreement, unless caused by the negligence or willful act of any of the Indemnified Parties.
- 11.2 **Ibid.** For greater certainty and without limiting subsection 11.1, the CMHA is not liable for how the Health Services Provider and its Personnel and Volunteers carry out the Services and is therefore not responsible to the Health Services Provider for such Services. Moreover the CMHA is not contracting with or employing any of the Health Services Provider's Personnel and Volunteers to carry out the terms of this Agreement. As such, it is not liable for contracting with, employing or terminating a contract with or the employment of any Health Services Provider's Personnel and Volunteers required to carry out this Agreement, nor for the withholding, collection or payment of any taxes, premiums, contributions or any other remittances due to government for the Health Services Provider's Personnel and Volunteers required by the Health Services Provider to carry out this Agreement.
- 11.3 **Indemnification.** The Health Services Provider hereby agrees to indemnify and hold harmless the Indemnified Parties, and each one of them, from and against any and all liability, loss, costs, damages and expenses (including, without limitation, legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively "**Claims**"), by whomever made, sustained, brought or prosecuted (including, without limitation, for third party bodily injury (including, without limitation, 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 Health Services Provider or its Personnel and Volunteers, in the course of the performance of the Health Services Provider's obligations under, or otherwise in connection with, this Agreement, unless caused by the negligence or willful misconduct of any Indemnified Parties.
- 11.4 **Insurance.**
- (a) **Generally.** The Health Services Provider shall protect itself from and against all claims that might arise from anything done or omitted to be done by the Health Services Provider and the Health Services Provider's Personnel and Volunteers under this Agreement and more specifically all claims that might arise from anything done or omitted to be done under this Agreement where bodily injury (including personal injury), death or property damage, including loss of use of property, is caused.
- (b) **Required Insurance.** The Health Services Provider will put into effect and maintain, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all necessary and appropriate insurance that a prudent person in the business of the Health Services Provider would maintain, including, but not limited to, the following at its own expense:

(1) Commercial General Liability Insurance, for third party bodily injury, personal injury and property damage to an inclusive limit of not less than two million dollars per occurrence and not less than two million dollars products and completed operations aggregate. The policy will include the following clauses:

- (i) The Indemnified Parties as additional insureds;
- (ii) Contractual Liability;
- (iii) Cross-Liability;
- (iv) Products and Completed Operations Liability;
- (v) Employee Liability and Voluntary Compensation unless the Health Services Provider complies with the Section below entitled "Proof of WSIA Coverage";
- (vi) Tenants Legal Liability; (*for premises/building leases only*);
- (vii) Non-Owned automobile coverage with blanket contractual coverage for hired automobiles; and
- (viii) A thirty Day written notice of cancellation, termination or material change.

(2) Proof of WSIA Coverage. The Health Services Provider will provide the CMHA with a valid Workplace Safety and Insurance Act, 1997 (WSIA) Clearance Certificate and any renewal replacements, and will pay all amounts required to be paid to maintain a valid WSIA Clearance Certificate throughout the term of this Agreement.

(3) All Risk Property Insurance on property of every description, for the term, providing coverage to a limit of not less than the full replacement cost, including earthquake and flood. All reasonable deductibles and/or self-insured retentions are the responsibility of the Health Services Provider.

(4) Comprehensive Crime Insurance, Disappearance, Destruction and Dishonest coverage.

(5) Errors and Omissions Liability Insurance insuring liability for errors and omissions in the provision of any professional services as part of the Services or failure to perform any such professional services, in the amount of not less than two million dollars per claim and in the annual aggregate.

(c) **Certificates of Insurance.** The Health Services Provider will provide the CMHA and LHIN with proof of the insurance required by the Agreement in the form of a valid certificate of insurance that references the Agreement and confirms the required coverage, on or before the commencement of the Agreement, and renewal replacements on or before the expiry of any such insurance. Upon the

request of the CMHA and/or LHIN, a copy of each insurance policy shall be made available to it. The Health Services Provider shall ensure that each of its subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the Indemnified Parties are named as additional insureds with respect to any liability arising in the course of performance of the subcontractor's obligations under the subcontract, to the extent applicable and permitted under the terms of this Agreement.

ARTICLE 12 - TERMINATION OF AGREEMENT

12.1 Termination by the CMHA.

(a) **Without Cause.** The CMHA may terminate the Agreement at any time, for any reason, upon giving at least sixty Days notice to the Health Services Provider.

(b) **Where No Appropriation.** If, as provided for in section 4.3, the CMHA does not receive the necessary funding from the LHIN or in the event the Services Accountability Agreement is otherwise terminated, the CMHA may terminate the Agreement immediately by giving notice to the Health Services Provider.

(c) **For Cause.** The CMHA may terminate the Agreement immediately upon giving notice to the Health Services Provider if:

- (i) in the opinion of the CMHA:
 - A. the Health Services Provider has knowingly provided false or misleading information regarding its funding request or in any other communication with the CMHA;
 - B. the Health Services Provider breaches any material provision of the Agreement;
 - C. the Health Services Provider is unable to provide or has discontinued the Services; or
 - D. it is not reasonable for the Health Services Provider to continue to provide the Services;
- (ii) the nature of the Health Services Provider's business, or its corporate status, changes so that it no longer meets the applicable eligibility requirements of the program under which the CMHA provides the Funding;
- (iii) the Health Services Provider makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or is petitioned into bankruptcy, or files for the appointment of a receiver; or
- (iv) the Health Services Provider ceases to carry on business.

- (d) **Material Breach.** A breach of a material provision of this Agreement includes, but is not limited to:
 - (i) misuse of Funding;
 - (ii) failure or inability to provide the Services as set out in the Service Plan;
 - (iii) a failure to provide the Compliance Declaration;
 - (iv) a failure to implement, or follow, a Performance Agreement, Performance Improvement Process or a Transition Plan;
 - (v) a failure to respond to CMHA's requests in a timely manner;
 - (vi) a failure to: (A) advise the CMHA of actual, potential or perceived Conflict of Interest; or (B) comply with any requirements prescribed by the CMHA and/or LHIN to resolve a Conflict of Interest; and
 - (vii) a Conflict of Interest that cannot be resolved.
- (e) **Transition Plan.** In the event of termination by the CMHA pursuant to this subsection, the CMHA and the Health Services Provider will develop a transition plan, acceptable to the CMHA that indicates how the needs of the Health Services Provider's clients will be met following the termination and how the transition of the clients to new service providers will be effected in a timely manner ("**Transition Plan**"). The Health Services Provider agrees that it will take all actions, and provide all information, required by the CMHA to facilitate the transition of the Health Services Provider's clients.

12.2 Termination by the Health Services Provider.

- (a) The Health Services Provider may terminate the Agreement at any time, for any reason, upon giving six (6) months' Notice (or such shorter period as may be agreed by the Health Services Provider and the CMHA) to the CMHA provided that the Notice is accompanied by:
 - (i) satisfactory evidence that the Health Services Provider has taken all necessary actions to authorize the termination of this Agreement; and
 - (ii) a Transition Plan, acceptable to the CMHA, that indicates how the needs of the Health Services Provider's clients will be met following the termination and how the transition of the clients to new service providers will be effected within the six month Notice period.
- (b) In the event that the Health Services Provider fails to provide an acceptable Transition Plan, the CMHA may reduce Funding payable to the Health Services Provider prior to termination of this Agreement to compensate the CMHA for transition costs.

12.3 Opportunity to Remedy.

(a) Opportunity to Remedy. If the CMHA considers that it is appropriate to allow the Health Services Provider an opportunity to remedy a breach of this Agreement, the CMHA may give the Health Services Provider an opportunity to remedy the breach by giving the Health Services Provider Notice of the particulars of the breach and of the period of time within which the Health Services Provider is required to remedy the breach. The Notice will also advise the Health Services Provider that the CMHA will terminate the Agreement:

- (i) at the end of the Notice period provided for in the Notice if the Health Services Provider fails to remedy the breach within the time specified in the Notice; or
- (ii) prior to the end of the Notice period provided for in the Notice if it becomes apparent to the CMHA that the Health Services Provider cannot completely remedy the breach within that time or such further period of time as the CMHA considers reasonable, or the Health Services Provider is not proceeding to remedy the breach in a way that is satisfactory to the CMHA.

(b) Failure to Remedy. If the CMHA has provided the Health Services Provider with an opportunity to remedy the breach, and:

- (i) the Health Services Provider does not remedy the breach within the time period specified in the Notice;
- (ii) it becomes apparent to the CMHA that the Health Services Provider cannot completely remedy the breach within the time specified in the Notice or such further period of time as the CMHA considers reasonable; or
- (iii) the Health Services Provider is not proceeding to remedy the breach in a way that is satisfactory to the CMHA,

then the CMHA may immediately terminate the Agreement by giving Notice of termination to the Health Services Provider.

12.4 Consequences of Termination.

- (a) If the Agreement is terminated pursuant to this Article, the CMHA may:
 - (i) cancel all further Funding instalments;
 - (ii) demand the repayment of any Funding remaining in the possession or under the control of the Health Services Provider;
 - (iii) determine the Health Services Provider's reasonable costs to wind down the Services; and

- (iv) permit the Health Services Provider to offset the costs determined pursuant to subsection (iii) against the amount owing pursuant to subsection (ii).

12.5 **Effective Date.** Termination under this Article will take effect as set out in the Notice. If no termination date is set out in the Notice, the effective date of any termination under this Article will be the last Day of the Notice period, the last Day of any subsequent Notice period or immediately, which ever applies.

12.6 **Corrective Action.** Despite its right to terminate this Agreement pursuant to this Article, the CMHA may choose not to terminate this Agreement and may take whatever corrective action it considers necessary and appropriate, including suspending Funding for such period as the CMHA determines, to ensure the successful completion of the Services in accordance with the terms of this Agreement.

Article 13 - Notice

13.1 **Notice.** A notice will be in writing; delivered personally or by pre-paid courier, by facsimile with confirmation of receipt, or by any form of mail where evidence of receipt is provided by the post office. A Notice may not be sent by e-mail. A Notice will be addressed to the other Party as provided below or as either Party will later designate to the other in writing:

To the CMHA:

Canadian Mental Health Association Peel
Dufferin Branch
601-7700 Hurontario Street
Brampton, ON L6Y 4M3

Attention: David Smith
Chief Executive Officer

Fax: 905-451-1720
Telephone: 905-451-1718 ext. 317

To the Health Services Provider:

Spectra Community Support Services
7700 Hurontario Street, Unit 401
Brampton, ON

Attention: Alison Caird
Executive Director

Fax: []
Telephone: []

13.2 **Notices Effective From.** A notice will be effective at the time the delivery is made.

ARTICLE 14- ADDITIONAL PROVISIONS

14.1 **Interpretation.** In the event of a conflict or inconsistency in any provision of this Agreement, the main body of this Agreement will govern over the Schedules, unless otherwise provided in the Schedules.

14.2 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or

enforceability of any other provision of the Agreement and any invalid or unenforceable provision will be deemed to be severed.

- 14.3 **Terms and Conditions on Any Consent.** Any consent or approval that the CMHA may grant under this Agreement is subject to such terms and conditions as the CMHA and/or the LHIN may reasonably require.
- 14.4 **Waiver.** A Party may only rely on a waiver of the Party's failure to comply with any term of the Agreement if the other Party has provided a written and signed Notice of waiver. Any waiver must refer to a specific failure to comply and will not have the effect of waiving any subsequent failures to comply.
- 14.5 **Parties Independent.** The Parties are and will at all times remain independent of each other and are not and will not represent themselves to be the agent, joint venturer, partner or employee of the other. No representations will be made or acts taken by either Party which could establish or imply any apparent relationship of agency, joint venture, partnership or employment and neither Party will be bound in any manner whatsoever by any agreements, warranties or representations made by the other Party to any other person or entity, nor with respect to any other action of the other Party.
- 14.6 **LHIN is an Agent of the Crown.** The Parties acknowledge that the LHIN is an agent of the Crown and may only act as an agent of the Crown in accordance with the provisions of the Act. Notwithstanding anything else in this Agreement, any express or implied reference to the LHIN providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of the LHIN or Government of Ontario, whether at the time of execution of the Agreement or at any time during the term of the Agreement, will be void and of no legal effect.
- 14.7 **Express Rights and Remedies Not Limited.** The express rights and remedies of the CMHA are in addition to and will not limit any other rights and remedies available to the CMHA at law or in equity. For further certainty, the CMHA has not waived any provision of any applicable statute, including the Act and the CFMA, nor the right to exercise its right under these statutes at any time.
- 14.8 **No Assignment.** The Health Services Provider will not assign the Agreement or the Funding in whole or in part, directly or indirectly, without the prior written consent of the CMHA, which consent may be arbitrarily or unreasonably withheld or denied. No assignment or subcontract shall relieve the Health Services Provider from its obligations under this Agreement or impose any liability upon the CMHA to any assignee or subcontractor. The CMHA may assign this Agreement or any of its rights and obligations under this Agreement to any one or more of the CMHAs, the LHINs or to the MOHLTC.
- 14.9 **Governing Law.** This Agreement and the rights, obligations and relations of the Parties hereto will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Any litigation arising in connection with this Agreement will be conducted in Ontario unless the Parties agree in writing otherwise.

- 14.10 **Survival.** Without limiting any specific provisions elsewhere in this Agreement, the provisions in Articles 1, 5, 8, 10, 11, 13, 14 and 15 will continue in full force and effect for a period of seven years from the date of expiry or termination of this Agreement.
- 14.11 **Further Assurances.** The Parties agree to do or cause to be done all acts or things necessary to implement and carry into effect the Agreement to its full extent.
- 14.12 **Amendment of Agreement.** This Agreement may only be amended by a written agreement duly executed by the Parties.
- 14.13 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
- 14.14 **Enforceability by LHIN and Reliance.** The CMHA shall hold the benefit of the applicable provisions of this Agreement in trust for the LHIN. The Health Services Provider acknowledges and agrees that the CMHA may rely on the representations, warranties and covenants of the Health Services Provider contained in this Agreement in meeting the obligations of the CMHA to LHIN under and pursuant to the terms of the Service Accountability Agreement.

ARTICLE 15 - Entire Agreement

- 15.1 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

SCHEDULE A – DESCRIPTION OF SERVICES

[NTD: this section would set out both the services as well as any conditions attached to the provision of a specific service – other than indicators of performance, or Service standards set out in Schedule D]

Name of Health Services Provider

Spectra Community Support Services

A. Services Provided – With Funding

- Spectra Community Support Services is a non-profit, multicultural organization providing support services in several languages. This funding is specific to the Touching Base program and to provide follow up to COAST Peel and Peel Crisis Service clients.

B. Client Population

- Anyone over the age of 16 years living in Mississauga, Brampton and Caledon who is going through a difficult situation or needs listening support and/or is experiencing mental or physical health issues, social isolation, loss, relationship problems, stress, crisis, or abuse.
- Services are available in English, Hindi, Punjabi, Urdu, Spanish, Portuguese, Mandarin & Cantonese.

C. Geography Served

Region of Peel and surrounding areas.

D. Conditions attached to the Provision of Services

Refer to Memorandum of Understanding between Spectra and CMHA/Peel. This MOU is currently in revision.

SCHEDULE B – SERVICE PLAN

Refer to Memorandum of Understanding between Spectra and CMHA/Peel. This MOU is currently in revision.

**SCHEDULE C - REPORTS
COMMUNITY MENTAL HEALTH AND ADDICTIONS SERVICES**

Please refer to page 15-16 Article 8 – 8.1 Reporting (b) Specific Obligations for reporting dates.

OHRS/MIS Trial Balance Submission (through OHFS)	
2014-15	Due Dates (Must pass 3c Edits)
2014-15 Q1	<i>Not required 2014-15</i>
2014-15 Q2	October 31, 2014
2014-15 Q3	January 31, 2015
2014-15 Q4	May 31, 2015
2015-16	Due Dates (Must pass 3c Edits)
2015-16 Q1	<i>Not required 2015-16</i>
2015-16 Q2	October 31, 2015
2015-16 Q3	January 31, 2016
2015-16 Q4	May 31, 2016
2016-17	Due Dates (Must pass 3c Edits)
2016-17 Q1	<i>Not required 2016-17</i>
2016-17 Q2	October 31, 2016
2016-17 Q3	January 31, 2017
2016-17 Q4	May 31, 2017
2017-18	Due Dates (Must pass 3c Edits)
2017-18 Q1	<i>Not required 2017-18</i>
2017-18 Q2	October 31, 2017
2017-18 Q3	January 31, 2018
2017-18 Q4	May 31, 2018

Supplementary Reporting - Quarterly Report (through SRI) and Annual Reconciliation Report (ARR)	
2014-2015	Due five (5) business days following Trial Balance Submission Due Date
2014-15 Q2	November 7, 2014
2014-15 Q3	February 7, 2015
2014-15 Q4	June 7, 2015 – Supplementary Reporting Due
2014-15 ARR	June 30, 2015
2015-2016	Due five (5) business days following Trial Balance Submission Due Date
2015-16 Q2	November 7, 2015
2015-16 Q3	February 7, 2016
2015-16 Q4	June 7, 2016 - Supplementary Reporting Due
2015-16 ARR	June 30, 2016
2016-17	Due five (5) business days following Trial Balance Submission Due Date
2016-17 Q2	November 7, 2016
2016-17 Q3	February 7, 2017
2016-17 Q4	June 7, 2017 – Supplementary Reporting Due
2016-17 ARR	June 30, 2017

2017-18	Due five (5) business days following Trial Balance Submission Due Date
2017-18 Q2	November 7, 2017
2017-18 Q3	February 7, 2018
2017-18 Q4	June 7, 2018 – Supplementary Reporting Due
2017-18 ARR	June 30, 2018

Board Approved Audited Financial Statements*	
Fiscal Year	Due Date
2014-15	June 30, 2015
2015-16	June 30, 2016
2016-17	June 30, 2017
2017-18	June 30, 2018

Declaration of Compliance	
Fiscal Year	Due Date
2013-14	June 30, 2014
2014-15	June 30, 2015
2015-16	June 30, 2016
2016-17	June 30, 2017
2017-18	June 30, 2018

Community Mental Health and Addictions- Other Reporting Requirements	
Requirement	Due Date
Common Data Set for Community Mental Health Services	Last day of the month following the end of Q2 and Q4 (Year-End) reporting periods
	2014-15 Q2 October 31, 2014
	2014-15 Q4 May 31, 2015
	2015-16 Q2 October 31, 2016
	2015-16 Q4 May 31, 2016
	2016-17 Q2 October 31, 2016
	2016-17 Q4 May 31, 2017
	2017-18 Q2 October 31, 2017
2017-18 Q4 May 31, 2018	
DATIS (Drug & Alcohol Treatment Information System)	Fifteen (15) business days after end of Q1, Q2 and Q3 - Twenty (20) business days after Year End (Q4)
	2014-15 Q1 July 22, 2014
	2014-15 Q2 October 22, 2014
	2014-15 Q3 January 22, 2015
	2014-15 Q4 April 30, 2015
	2015-16 Q1 July 22, 2015
	2015-16 Q2 October 22, 2015
	2015-16 Q3 January 22, 2016
	2015-16 Q4 April 28, 2016
	2016-17 Q1 July 22, 2016
2016-17 Q2 October 24, 2016	
2016-17 Q3 January 23, 2017	
2016-17 Q4 May 2, 2017	
2017-18 Q1 July 21, 2017	

	2017-18 Q2	October 24, 2017
	2017-18 Q3	January 23, 2018
	2017-18 Q4	May 2, 2018
ConnexOntario Health Services Information <ul style="list-style-type: none"> • Drug and Alcohol Helpline • Ontario Problem Gambling Helpline (OPGH) • Mental Health Helpline 	All HSPs that received funding to provide mental health and/or addictions services must participate in ConnexOntario Health Services Information's annual validation of service details; provide service availability updates; and inform ConnexOntario Health Services Information of any program/service changes as they occur.	
French Language Service Report	2014-2015	April 30, 2015
	2015-2016	April 30, 2016
	2016-2017	April 30, 2017
	2017-2018	April 30, 2018

SCHEDULE D – DIRECTIVES, GUIDELINES AND POLICIES COMMUNITY MENTAL HEALTH & ADDICTIONS SERVICES

Only those requirements listed below that relate to the programs and services that are funded by the CMHA will be applicable.

- Community Financial Policy, April 1, 2016
- **Operating Manual for Community Mental Health and Addiction Services (2003)**
 - Chapter 1. Organizational Components
 - 1.2 Organizational Structure, Roles and Relationships
 - 1.3 Developing and Maintaining the HSP Organization / Structure
 - 1.5 Dispute Resolution
 - Chapter 2. Program & Administrative Components
 - 2.3 Budget Allocations/ Problem Gambling Budget Allocations
 - 2.4 Service Provision Requirements
 - 2.5 Client Records, Confidentiality and Disclosure
 - 2.6 Service Reporting Requirements
 - 2.8 Issues Management
 - 2.9 Service Evaluation/Quality Assurance
 - 2.10 Administrative Expectations
 - Chapter 3. Financial Record Keeping and Reporting Requirements
 - 3.2 Personal Needs Allowance for Clients in Some Residential Addictions Programs
 - 3.6 Internal Financial Controls (*except "Inventory of Assets"*)
 - 3.7 Human Resource Control
- **Early Psychosis Intervention Standards (March 2011)**
- **Ontario Program Standards for ACT Teams (2005)**
- **Intensive Case Management Service Standards for Mental Health Services and Supports (2005)**
- **Crisis Response Service Standards for Mental Health Services and Supports (2005)**
- **Psychiatric Sessional Funding Guidelines (2004)**
- **Joint Policy Guideline for the Provision of Community Mental Health and Developmental Services for Adults with Dual Diagnosis (2008)**
- **Addictions & Mental Health Ontario – Ontario Provincial Withdrawal Management Standards (2014)**
- **Addictions staged screening and assessment tools (2015)**

- **South Oaks Gambling Screen (SOGS)**
- **Ontario Healthcare Reporting Standards – OHRIS/MIS – most current version available to applicable year**
- **Guideline for Community Health Service Providers Audits and Reviews, August 2012**

SCHEDULE E - PERFORMANCE

Spectra	Budget/Target
Individuals Served	300
Visits	18,979

In addition Service provider interactions must be submitted, as well as group sessions and interactions.

Detailed worked hours and benefit hours; as well as a detailed accounting of the benefit costs is also required.

SCHEDULE F – FUNDING

The Funding for the provision of Services is as follows:

SPECTRA

\$107,095 Annually

The funding will be paid monthly on submission of an invoice and copies of related receipts.

The Funding will be paid by the CMHA to the Health Service Provider in monthly amounts.

SCHEDULE G – FORM OF COMPLIANCE DECLARATION

DECLARATION OF COMPLIANCE

Issued pursuant to the Project Funding Agreement effective April 1, 2017

To: The Board of Directors of the Central West Local Health Integration Network (the "LHIN"). Attention: Board Chair

And To: The Board of Directors of the CMHA Peel Dufferin Branch (the "CMHA"). Attention: Board Chair

From: The Board of Directors (the "Board") of Spectra Community Support Services (the "Health Services Provider")

Date: [insert date]

Re: April 1, 2017 to March 31, 2018 (the "Applicable Period")

Unless otherwise defined in this declaration, capitalized terms have the same meaning as set out in the Project Funding Agreement between the CMHA and the Health Services Provider effective April 1, 2017.

The Board of the Health Services Provider has authorized me, by resolution dated [insert date], to declare to you as follows:

After making inquiries of the [insert name and position of person responsible for managing the Health Services Provider on a day to day basis, e.g., the Chief Executive Officer or the Executive Director] and other appropriate officers of the Health Services Provider and subject to any exceptions identified on Appendix 1 to this Declaration of Compliance, to the best of the Board's knowledge and belief, the Health Services Provider has fulfilled its obligations under the project funding agreement in effect during the Applicable Period.

Without limiting the generality of the foregoing, the Health Services Provider has complied with:

- (i) Section 4.8 of the Agreement concerning applicable procurement practices;
- (ii) The *Local Health System Integration Act, 2006*; and
- (iii) The *Public Sector Compensation Restraint to Protect Public Services Act, 2010*.

[insert name], [insert title]

SCHEDULE G – FORM OF COMPLIANCE DECLARATION CONT'D

Appendix 1 - Exceptions

[Identify each obligation under the project funding agreement that the Health Services Provider did not meet during the Applicable Period, together with an explanation as to why the obligation was not met and an estimated date by which the Health Services Provider expects to be in compliance.]