

This eHealth Ontario Innovation Lab Terms of Use (this “**Agreement**”) is a legally binding agreement between you, the individual end user, together with any company or other legal entity that employs you, you are under contract with or that you otherwise act on behalf of (collectively, “**You**” or “**Your**”) and eHealth Ontario (“**eHealth**”) and applies to Your use of the Services (defined below) or any portion thereof, including any Digital Health Solution or related Materials offered by eHealth or its Associates. By clicking the "I Accept" button provided at the bottom of this Agreement, You acknowledge and agree that Your use of the Services will be governed by terms and conditions of this Agreement. If at any time You do not agree to the terms and conditions of this Agreement, You must immediately terminate all use of the Services, including the Community, any Digital Health Solution and related Materials.

Capitalized terms which are not otherwise defined in the body of this Agreement (when first used) are defined in section 14.14 below.

## 1. Capacity and Related Matters

1.1 You represent and warrant that: (i) all information You have provided and will provide to eHealth is accurate and complete in all respects; (ii) no authorization or approval from any third party is required in connection with Your execution, delivery or performance of this Agreement, (iii) You have the legal right, power and authority to accept the terms and conditions of this Agreement on Your own behalf and on behalf of any company or other legal entity that employs You or that You act on behalf of; (iv) this Agreement constitutes a legal, valid and binding obligation, enforceable against You (including any company that employs You or that You represent) in accordance with its terms; and (v) Your acceptance of this Agreement does not violate any Applicable Laws or breach any other agreement to which You or Your company are bound.

## 2. Conditions of Use

2.1 You are permitted to access and use the Services solely for activities related to Your developing and testing Your systems or Your Applications against components of the Ontario EHR provided on or through the Portal (the “**Purpose**”).

2.2 You agree to use the Services in accordance with the Acceptable Use Policy, a copy of which You acknowledge receiving. eHealth may amend the Acceptable Use Policy from time-to-time and will notify You of any revision to the Acceptable Use Policy by posting the revision at <http://www.ehealthontario.on.ca/en/about>. You are responsible for reviewing and retaining a copy of any amended Acceptable Use Policy. Your continued use of the Services constitutes acceptance of any amended Acceptable Use Policy. Notwithstanding anything to the contrary in this Agreement, if You do not accept the terms of any amended Acceptable Use Policy, You must notify eHealth and stop using the Services immediately.

2.3 You understand and agree that eHealth may require You to submit, and eHealth will collect, certain information, both public and non-public, about You in order to provide the Services, including collection and use of Your IP address and collection of information necessary to enroll You into the Services and provide You with an Account and any other credentials required to access the

Services. You further understand that eHealth may transfer this information to its Representatives and Associates as well as any third parties assisting eHealth in the provision, administration and management of, and in evaluating Your eligibility for, the Services, including access to any particular Digital Health Solution and access to the Community.

- 2.4 You understand and agree that You are solely responsible for keeping confidential any password, code, token, certificate, user ID or other credentials provided to You by eHealth in order to access or use the Services and that You are responsible for any and all activities that occur using such credentials. You agree to immediately notify eHealth at email: [architecture@ehealthontario.on.ca](mailto:architecture@ehealthontario.on.ca); Tel: 416 591 8046, if You suspect that the security of the credentials provided by eHealth to You have been or may have been compromised, or if You know or suspect that there has been unauthorised access to the Portal using Your credentials, providing such information and assistance as may be required by eHealth.
- 2.5 You are solely responsible for all costs and expenses related to Your use of the Services, including the development of any of Your Applications, as applicable. eHealth will not reimburse You for any costs or expenses.

### **3. Licenses**

- 3.1 You agree that You have all rights, titles, licenses and any consents required under Applicable Laws to connect Your Applications to the Digital Health Solutions and otherwise carry out Your rights and obligations under this Agreement. In relation to Your use of the Services, You will be solely liable for any loss, damage or claims arising due to any infringement of intellectual property rights or proprietary rights of any third party.
- 3.2 Subject to and conditional upon Your acceptance of and compliance with the terms and conditions of this Agreement, eHealth grants You a personal, nonexclusive, non-sublicensable, non-transferable, revocable, limited license, solely in relation to the Purpose and during the term of this Agreement, to: (i) use and reproduce the Licensed Components solely for the purpose of developing and testing Your Applications within the Test Environment using the Test Data, provided that interoperability with the applicable eHealth Service is maintained in accordance with the applicable Documentation; (ii) access and use the Community; and (iii) access and use the Test Harness in accordance with the applicable Documentation to test transactions and message formats for one or more Digital Health Solutions using Test Data.
- 3.3 You agree that You will only use the Materials for testing and demonstrations. Any permitted reproduction or use of the Licensed Components or other Materials will include attribution to eHealth, or other person as directed by eHealth, as the source and additionally will contain all copyright and other proprietary notices or legends found on the original.
- 3.4 You agree that: (i) eHealth disclaims, and You assume, all liability related to Test Data and Your use of the Test Environment, Test Harness or the Portal, including any data submitted by You or any data generated or derived from that data, submitted by You to a Digital Health Solution; (ii) eHealth may, but has no obligation to, maintain such Test Data on its servers, or third party servers, and where applicable reserves the right to modify or delete from its systems all such data on regular intervals without notice; (iii) only simulated Test Data may be submitted or uploaded on or through the Test Harness or Your Applications, as applicable (e.g., real account numbers, names,

addresses, and other Personal Information may not be used for testing purposes, and may not be submitted or uploaded on or through Your Applications or through the Test Harness); (iv) load testing Your Application or any eHealth Services is not permitted; and (v) eHealth has no obligation to monitor or validate any information submitted or uploaded by You on or through Your Applications or through the Portal, including the Community or Test Harness. The foregoing are in addition to the exclusions set out in section 5.6 below.

- 3.5 Notwithstanding anything to the contrary in this Agreement or on any Materials, You will not (and will have no right to):
- (a) alter or remove any copyright, trademark, trade name or other proprietary notices, legends, symbols or labels appearing on or in the Materials or any reproduction thereof;
  - (b) sublicense (or purport to sublicense), distribute or disclose any of the Materials, in whole or in part, to any third party or use the Materials on behalf of any third party;
  - (c) distribute or otherwise provide all or any portion of the Materials to any person other than those within Your company or otherwise use or export any Materials in violation of Applicable Laws;
  - (d) engage in any activity, including the development or distribution of any software or Your Applications, that interferes with, disrupts, damages, or accesses in an unauthorized manner any eHealth Services or any eHealth platforms, servers, or systems, or those of any of its Associates, third parties or any other person;
  - (e) decompile, reverse engineer, disassemble, rent, lease, loan, distribute, or, except as expressly set forth in section 3.2 above create derivative works of any Digital Health Solution, any aspect of the Services or from the Materials or any portion thereof;
  - (f) use the Materials or any associated data or content, or extract, scrape or otherwise deconstruct any of the Materials or any associated data or content, for the purpose of using individual data elements, combining data elements, compiling, enhancing, verifying, supplementing, or otherwise modifying databases, lists, or directories of any kind, including location databases, mailing lists, contact lists, marketing lists, geographical directories, or any other compilation or collation of information which is sold, rented, published, distributed or in any manner supplied to a third party;
  - (g) attempt to circumvent any security measures or technical limitations used by eHealth in connection with the Portal or the Services;
  - (h) use the Services for the purpose of harassing, abusing, stalking, threatening or otherwise violating Applicable Laws or the legal rights (such as the rights of privacy, Intellectual Property Rights or publicity rights) of others.
  - (i) use the Materials or any associated data or content in any manner or for any purpose that violates any Applicable Laws or any right of any person, including Intellectual Property Rights or rights of privacy; or
  - (j) otherwise use, disclose or exploit the Materials for any purpose other than as expressly permitted by this Agreement.
- 3.6 You agree that any materials You provide, create or develop that are in any way related to the Services, or Your use of this Agreement, do not and will not infringe any Intellectual Property Rights or other proprietary rights of any third party.
- 3.7 You agree that You and Your Applications do not, and will not, receive an accreditation, certification or conformance guarantee of any kind as a result of using the Services and that You will not make any statements that Your Applications are "accredited", "certified" or otherwise endorsed, or that its performance is guaranteed, by eHealth, its Representatives or any of its third parties or Associates.

You further acknowledge and agree that You and Your Applications have no present or future rights to access the Ontario EHR, or any data therein, as a result of using the Services, notwithstanding any returned success or failure response from eHealth as part of the Services.

- 3.8 As between eHealth and You, all content, data, graphics, photographs, images, audio, video, software (including source code and object code), products, trademarks and all other components and information (collectively, the “**Content**”) accessible by means of the Services are the exclusive property of eHealth or its licensors or its Associates, as applicable.
- 3.9 Except as provided for herein, You are prohibited from modifying, copying, reproducing, publishing, transmitting, distributing, posting, executing or interpreting, transferring, assigning or selling any Content, or creating derivative works therefrom, without the prior written consent of eHealth.
- 3.10 eHealth has no obligation to provide support, maintenance, updates, upgrades, modifications or new releases of any part of the Services, including Materials, Portal (including Community and Test Harness) or Digital Health Solution (“**Updates**”). If eHealth does elect, in its sole discretion, to provide any Updates, the terms and conditions of this Agreement will govern such Updates, unless accompanied by a separate license or agreement, in which case the terms of that license or agreement will govern.
- 3.11 **Access Limited.** Access to each Digital Health Solution may be subject to separate approval by eHealth and subject to additional terms and conditions posted on the Portal. eHealth may limit access to each Digital Health Solution, in its sole discretion. You may only access the Digital Health Solutions and associated Materials for which You have been given access by eHealth in accordance with additional terms and conditions on the Portal.

#### **4. Compliance with Applicable Laws and Application Requirements**

- 4.1 You agree to comply, at Your own expense, with all Applicable Laws as well as foreign, international or other laws, policies, guidelines, standards, regulations, ordinances, rules, orders and judgments applicable to You, Your Representatives, Your employer or business, Your Applications and the Services including the Digital Health Solutions, Community, Your Account and the Materials.
- 4.2 You will not use the Services, including the Community, Digital Health Solution or any Materials in any manner, or in furtherance of any activity, that may cause eHealth, its licensors or its Associates to be in breach of Applicable Laws or subject to investigation, prosecution, or legal action in any jurisdiction whatsoever.
- 4.3 Any of Your Applications developed, enhanced, configured or modified using any of the APIs or other Materials must comply with the following criteria and requirements:
  - (a) For Your Applications that use location-based APIs or that collect, transmit, maintain, process, share, disclose or otherwise use an end user's Personal Information, You and Your Applications must comply with all Applicable Laws, including those related to privacy and data collection with respect to any collection, storage, transmission, maintenance, processing or use of the user's location data or Personal Information by Your Applications.

- (b) Your Applications may not be designed or marketed for the purpose of harassing, abusing, stalking, threatening or otherwise violating Applicable Laws or the legal rights (such as the rights of privacy, Intellectual Property Rights or publicity rights) of others.
- (c) Your Applications may not use any robot, spider, site search or other retrieval application or device to scrape, retrieve or index services provided by eHealth, its Associates or its licensors, or to collect information, including information about users, for any unauthorized purpose.
- (d) You must either own all content used in Your Applications, or have permission from the content owner to use it in Your Applications.
- (e) You are exclusively responsible for protecting Your Applications, software, electrical equipment and other equipment against viruses and to ensure that same are free from any viruses. Your Applications must not contain any malware, malicious or harmful code, program, or other internal component (e.g., computer viruses, Trojan horses, "backdoors") which could damage, destroy, or adversely affect other software, firmware, hardware, data, systems, services, or networks.

eHealth maintains its own protection against viruses on its (and its Representatives and third parties') servers, but will accept no liability (including for direct and indirect damages) for viruses that may affect Your systems or Your Applications and resulting from access to and use of the Services.

## **5. Developer Community**

- 5.1 You acknowledge and agree that You are solely responsible for the content and the material You post or otherwise provide, including their legality, reliability, appropriateness, and trademark and copyright ownership. You grant eHealth and the users of this Community the perpetual, irrevocable, nonexclusive right and license to display, use, copy, modify, publish, distribute, transmit, print, and otherwise exploit any such content and material without restriction.
- 5.2 You agree that You will not upload, post or transmit to or distribute through the Community any materials (including text, links, communications, software, images, sounds, data, or other information) that may:
  - (a) contain any Confidential Information or Personal Information of eHealth, Yourself, Your Representatives, Your company or employer, or any other person or entity, including proprietary information, trade secrets or Personal Information;
  - (b) be false, libelous, defamatory, obscene, pornographic, indecent, lewd, harassing, threatening, harmful, invasive of privacy or publicity rights, abusive, inflammatory, illegal or otherwise objectionable or injurious to third parties;
  - (c) constitute or encourage conduct that is unlawful or would constitute a criminal offense, give rise to civil liability or otherwise violate any Applicable Laws;
  - (d) violate, misappropriate or infringe any Intellectual Property Rights or other rights of any third party;
  - (e) constitute advertising, junk mail, spam, chain letters, or any other form of unauthorized solicitation; or
  - (f) otherwise violate this Agreement or Applicable Laws.
- 5.3 In order to use the Community, You must register for an Account. You will be asked to select a username, business email address or other ID and password to enable You to access Your Account and the Community. You may provide information about Yourself during the Account registration process but You are not required to and You agree not to provide any Personal

Information and to limit the information provided to business-related information. You agree not to share Your login credentials with any other person. You agree to notify eHealth immediately, at 416 591 8046, of any unauthorized use of Your password or Your Account or any other breach of security. You must restrict access to Your Account solely to Your own use.

5.4 **Usage Guidelines.** While using the Community, You agree that You:

- (a) will be courteous and respectful of others;
- (b) will keep Your posts relevant to the health technology industry and eHealth's products, services and programs;
- (c) will act responsibly to protect the private information and Confidential Information of eHealth, its Associates, any third party, You and Your company;
- (d) Will not post any Personal Information about Yourself or any third party; and
- (e) acknowledge that information appearing in the Community could be incorrect, incomplete, unclear or misleading.

5.5 **Moderator Role.** eHealth may select or retain, in its sole discretion, one or more moderators. Such moderators may have rights and privileges to, among other things as determined in eHealth's sole discretion, edit/delete posts and posted materials, post responses or other comments, close threads, and block users from using the Community. eHealth or the moderators may remove any materials or block user access that they believe, in their sole discretion, do not comply with the current applicable terms and conditions of this Agreement, or that are otherwise inappropriate for this Community. eHealth is not responsible and have no liability for any removal of materials or blocking of users, or any failure or delay in removing any such materials or blocking such user access. To report any concerns or possible violations of this Agreement or any other concerns related to the Community, please write to [architecture@ehealthontario.on.ca](mailto:architecture@ehealthontario.on.ca) or such other support email address or phone number designated on the Community site.

5.6 There may be posts within the Community that contain hyperlinks to content hosted and maintained by third parties. The linked sites are not approved or controlled by eHealth and Your access to any linked site is at Your own risk. eHealth makes no claim or representation regarding, and accepts no responsibility for, sites accessible by hyperlink from the Community. In addition, the Portal may provide users of the Services with hyperlinks to one or more third party code sharing repositories. eHealth does not approve or control these repositories and You agree that You are solely responsible for determining whether You or Your company use or access any of these repositories including any hyperlinks to these repositories. These repositories are hosted and maintained by third parties, and if You click any hyperlinks to these repositories You will no longer be in an environment managed by eHealth. eHealth provides hyperlinks to these repositories solely as a convenience for users of the Services and its action in setting up any hyperlinks should not be considered a certification, representation, or warranty, express or implied, of any kind concerning these repositories. You are not required to use any of these repositories or share any information with other users on or through these repositories, as use of these repositories is at Your sole discretion. Any access to, use of, or reliance on these repositories, including any information in or from these repositories, is at Your sole risk and liability, and You agree that eHealth will have no liability for Your access to or use of these repositories, including any information in or from these repositories.

5.7 **Support.** Support will be limited to comments and feedback provided through the Community. eHealth does not review or monitor such comments and has no responsibility or liability whatsoever

for the content of such comments or any reliance that You or any third party may place upon such comments.

- 5.8. **Feedback.** If You provide any feedback, recommendations for improvements or features of the Services or any other products or services, implementation of that feedback or recommendation is owned by eHealth and may become part of the Services, products and services without compensation to You.

## 6. Privacy and Security

- 6.1 **Data Collection; Privacy.** eHealth, its third parties and its Associates may collect and use technical and related information, including information about You, Your Applications, and Your computers, system software, other software and peripherals
- 6.2 You are solely responsible for the security of data residing on servers or other systems owned or operated by You, or a third party designated by You (e.g., a web hosting company, processor, or other service provider). You agree that You will comply with all applicable eHealth security protocols and security advisories in effect during the term of this Agreement. You acknowledge that eHealth will not be liable for any improperly processed or unauthorized transactions or illegal or fraudulent access to Your Applications or Your Account. eHealth's liability hereunder solely attributable to its negligence is limited pursuant to section 10 below.
- 6.3 Notwithstanding anything to the contrary in this Agreement, You agree that You will not use or disclose any Personal Information of any person in connection with the Services, including in using the Community or in connecting Your Applications to the Digital Health Solution.

## 7. Term and Termination

- 7.1 **Term.** This Agreement will commence on the date You indicate Your acceptance of the terms and conditions hereof and will remain in full force and effect until terminated as permitted hereunder.
- 7.2 **Termination by You.** You may terminate this Agreement at any time for any reason upon notice to eHealth.
- 7.3 **Termination by eHealth.** eHealth may, in its sole discretion and at any time without liability, cost, penalty or prejudice to any other rights or remedies under this Agreement, terminate this Agreement, suspend the Services or delete Your Account upon notice to You.
- 7.4 **Effect of Termination.** Upon termination of this Agreement for any reason, all rights and licenses granted to You under this Agreement will be extinguished, and You will immediately cease using the Services including Your Account, Digital Health Solution and Materials and any derivative work thereof and return to eHealth all Confidential Information, if applicable, and all copies, extracts and derivative works of the foregoing, together with any and all documents, notes and other materials regarding such information. The provisions of this Agreement which by their nature extend beyond the expiration or termination of this Agreement will survive and remain in effect until all obligations are satisfied including sections 1, 2, 3, 5.1, 5.6, 6, 7.4, 8, 9, 10, 11 and 12.

## 8. Intellectual Property

- 8.1 eHealth, its Associates, its vendors or its licensors, own or license, and will retain, all right, title and interest in and to the eHealth Services, Community, Digital Health Solutions, Accounts, Materials (including all SDKs and APIs), Documentation, eHealth trade-marks and, in association with the Services, any graphics, photographs, images, audio and video, as well as any derivatives of the foregoing, and all Intellectual Property Rights therein or associated with any of the foregoing (collectively, “**eHealth IP**”). No title to or ownership of any eHealth IP is granted or otherwise transferred to You or any other entity or person under this Agreement.
- 8.2 You will not: (a) use eHealth IP except as expressly authorized in this Agreement; (b) take any actions inconsistent with eHealth’s ownership of eHealth IP and any associated registrations (including by using, registering or attempting to register any eHealth trade-marks or trade-marks or domain names that are confusingly similar to any of the eHealth trade-marks), or attack the validity of any eHealth IP or its ownership thereof, or any of the terms of this Agreement.
- 8.3 **Use of Trade-marks.** Nothing in this Agreement grants You any rights to use any trade-mark of eHealth or any of its Associates and You agree not to use any such trade-marks. If You make reference to any products, services or technology of eHealth or its Associates, You will strictly comply with all standards and guidelines r which may be furnished or made available to You from time to time.

## 9. Confidential Information

- 9.1 You agree to hold all Confidential Information in strict confidence, not to disclose, distribute or disseminate the Confidential Information or information derived therefrom in any way to any third party and not to use the Confidential Information for Your own benefit or the benefit of others, or for any purpose except in connection with Your exercise of Your rights and Your performance of Your obligations under this Agreement. You agree to use Your best efforts to protect all Confidential Information and in any event, to take precautions at least as great as those taken to protect Your own information of a similar nature. Upon eHealth’s request, You will return or destroy (and certify such destruction to eHealth’s reasonable satisfaction) all materials, in any medium, that contain, embody, reflect or reference all or any part of any Confidential Information. You acknowledge that breach of this section may result in irreparable harm to eHealth, for which money damages may be an insufficient remedy, and therefore eHealth will be entitled to seek injunctive relief to enforce the provisions of this section. For avoidance of doubt, You may not use or disclose any Materials or Confidential Information for any patents or patent applications. Without limiting any other rights or remedies of eHealth, if You or any of Your employees, agents or contractors use or disclose any Materials or Confidential Information for any patents or patent applications or file or prosecute any patents or patent applications for inventions based on any Materials or eHealth Confidential Information, eHealth, its Associates and third parties will have and are hereby granted a fully paid-up, royalty-free, worldwide, irrevocable license to exercise all rights under such patents and patent applications, including the right to grant and authorize sublicenses.
- 9.2 eHealth may disclose Your Confidential Information if required under Applicable Laws.

## 10. Disclaimers and Limitations

- 10.1 **Disclaimers.** The Services, Materials, Digital Health Solution, Accounts, and all information and other materials contained or made available therein provided on an “as is”, “as available”, basis



without warranty of any kind. Your use of any of the foregoing is at Your own risk. Neither eHealth nor any of its current and former Associates, affiliates, employees, successors or assigns represent or warrant that the eHealth Services, Materials, Digital Health Solution, Community or any information or other materials contained or made available therein will be available, accessible, uninterrupted, timely, secure, accurate, complete, or error-free. You expressly acknowledge that computer network-based services may be subject to outages, interruptions, attacks by third parties and delay occurrences. eHealth specifically disclaims all representations, warranties, and conditions whether express or implied, arising by statute, operation of applicable laws, usage of trade, course of dealing, or otherwise, including warranties or conditions of merchantable quality, fitness for a particular purpose, non-infringement, or title.

- 10.2 **Limitations of liability.** In no event will eHealth or its Associates (or any representative of eHealth or its Associates) (collectively, the “**eHealth Parties**”) be liable for any damages of any kind whatsoever arising out of or in connection with this Agreement or Your use of the Services. This limitation will apply irrespective of the nature or cause of action, demand or action, including breach of contract, negligence, tort, or any other legal theory, and will survive failure of the essential purpose of this Agreement or any remedy contained therein, regardless of whether it has been advised of the possibility of such damages.

## 11. Indemnification

- 11.1 You agree to indemnify, defend, and hold harmless eHealth, its Associates and any eHealth or Associate officers, directors, agents and employees from and against any and all claims, liabilities, damages, losses, costs, expenses, or fees (including reasonable legal fees) that such parties may incur as a result of or arising from Your (or anyone using Your Account) breach of this Agreement or use of the Services. eHealth reserves the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by You and, in such case, You agree to cooperate with eHealth’s defence of such claim.

## 12. General Provisions

- 12.1 **Publicity.** You will not issue any press release or general marketing communication or make any other public statements concerning this Agreement, its terms and conditions, or the relationship of the parties without the express prior written consent of eHealth, which may be withheld at eHealth's sole discretion.
- 12.2 **Your Representatives.** You are responsible for causing Your Representatives to comply with the terms and conditions of this Agreement, and a breach of this Agreement by a Representative of Yours is a breach of this Agreement by You.
- 12.3 **Non-exclusivity.** Each party acknowledges and agrees that the rights granted to the other party in this Agreement are non-exclusive, and that, without limiting the generality of the foregoing, nothing in this Agreement will be deemed or construed to prohibit either party from participating in similar business arrangements as those described herein.
- 12.4 **Relationship of the Parties.** The parties are independent contractors and nothing in this Agreement will make them joint ventures, partners, employees, agents or other representatives of the other party. Neither party will make any representation that suggests otherwise.

12.5 **Notices to You.** You agree that all notices to You may be posted within a Digital Health Solution, the Community or on any Portal through which the Services are accessible.

12.6 **Notices to eHealth.** You agree that all notices required under this Agreement to eHealth will be sent by certified or registered mail, return receipt requested, to the following address:

Attention: General Counsel, Legal Services,  
P.O. Box 148,  
777 Bay Street, Suite 701  
Toronto, Ontario  
M5G 2C8  
Email: [GeneralCounsel-CorporateSecretary@ehealthontario.on.ca](mailto:GeneralCounsel-CorporateSecretary@ehealthontario.on.ca)

12.7 **Questions about the Services.** If You have questions regarding the Services, contact a customer service representative by email at: [architecture@ehealthontario.on.ca](mailto:architecture@ehealthontario.on.ca) or by phone at 416 591 8046. You can also contact us by mail by writing to the following address:

12.8 **Amendment.** eHealth reserves the right to modify the terms and conditions of this Agreement at any time. The most recent version of this Agreement will be posted at <http://www.innovation-lab.ca/terms-of-use>. eHealth may modify this Agreement at any time by posting a new version at such URL and the most recent modification date will be noted by the "Last Updated" date above. To the fullest extent permitted under Applicable Laws, Your continued use of the Services after any such modification constitutes Your acceptance of the Agreement as modified. If You do not agree to any modification of this Agreement, You must notify eHealth, immediately stop using the Services and stop accessing and using Your Account and any Materials.

12.9 **Severability; Headings.** If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision, which most closely approximates the intent and economic effect of the invalid provision.

12.10 **Governing Law; Jurisdiction.** This Agreement will be governed by the laws of the Province of Ontario and the laws of Canada applicable therein, without reference to the conflict of laws provisions. The parties consent to the jurisdiction of the courts of Ontario.

12.12 **Assignment.** You may not assign any of Your rights or delegate the performance of any of Your obligations under this Agreement without the prior written consent of eHealth. Any purported assignment in violation of hereof will be null and void. eHealth reserves the right to assign this Agreement or any right or obligation under this Agreement to any person without consent.

12.13 **Entire Agreement.** This Agreement (including any additional Terms of Use for an applicable Digital Health Solution or Community), together with all of eHealth's policies referenced herein, constitutes the entire agreement between the parties, and supersedes any prior agreements, understandings, negotiations and discussions, whether oral or written, between the parties, with respect to the subject matter hereof.

12.14 **Definitions; Interpretation.** Throughout this Agreement: (i) the term "including" has been used to mean "including, but not limited to"; (ii) the singular includes the plural and vice versa; (iii) any

gender includes all genders; and (iv) words or abbreviations not otherwise defined in this Agreement that have well known or trade meanings will be interpreted in accordance with their recognised meanings. Unless defined elsewhere, capitalised words have the following meanings:

**“Acceptable Use Policy”** means the acceptable use policy of eHealth as amended from time to time and available at

<http://www.ehealthontario.on.ca/images/uploads/pages/documents/AcceptableUsePolicy.pdf>

**“Account”** means the account by which You gain access to either or both of the Community or the Test Harness, subject to the terms and conditions of this Agreement.

**“Applicable Laws”** means, with respect to any person, property, transaction, event or other matter, any laws, rules, statutes, regulations, orders, judgments, decrees, treaties or other requirements having the force of law applicable in the Province of Ontario and relating to or applicable to such person, property, transaction, event or other matter;

**“API”** means, for purposes of this Agreement, an application interface that formats, messages transferred between Your systems and eHealth's or its Associates' systems as specified in the applicable Documentation and which may be provided to You as part of a Digital Health Solution as software in object code format or as sample code or code snippets. You may only use APIs that are specifically exposed as part of the Digital Health Solution for interfacing to the respective eHealth Services.

**“Associates”** means, for purposes of this Agreement, any entity that owns or operates a Digital Health Solution that is made available to You to interface with Your application or system via the Portal.

**“Community”** means the message board, forum or other means provided in connection with the Services to allow You to post messages, upload content and/or otherwise communicate with other developers.

**“Confidential Information”** means any and all information and materials, which: (i) are designated in writing, as confidential at the time of disclosure, or (ii) if disclosed orally or visually, are designated as confidential at the time of disclosure, or (iii) a reasonable person, having regard to the circumstances and the information, would regard as confidential; including the Materials, analysis and performance information relating to any Digital Health Solution or eHealth Services, and other technical, business, product, marketing and financial information, plans, data, and the terms and existence of this Agreement.

**“Digital Health Solution”** means a program offered by eHealth or its Associates for developers to develop and test certain Applications or to test via the Portal with the Test Harness, for use with specified eHealth Services. eHealth may make separate Digital Health Solutions available for different Applications and/or eHealth Services. Each Digital Health Solution may include access to certain Materials for the particular Digital Health Solution.

**“Documentation”** means collectively, the operating instructions, user manuals, help files and other documentation, in written or electronic form, made available to You that are intended to be used in

connection with the Services, including the respective Digital Health Solution, Community or related Materials.

**“eHealth Services”** means all services, programs or systems provided by or on behalf of eHealth or its Associates, including the Digital Health Solutions.

**“Intellectual Property Rights”** means all the intellectual property, industrial and other proprietary rights, protected or protectable, under Applicable Laws, as well as the laws of any foreign country or jurisdiction, or any political subdivision thereof, including: (i) all trade names, trade dress, trademarks, service marks, logos, brand names and other identifiers; (ii) copyrights, moral rights (including rights of attribution and rights of integrity); (iii) all trade secrets, inventions, discoveries, devices, processes, designs, techniques, ideas, know-how and other confidential or proprietary information, whether or not reduced to practice; (iv) all domestic and foreign patents and the registrations, applications, renewals, extensions and continuations (in whole or in part) thereof; and (v) all goodwill associated therewith and all rights and causes of action for infringement, misappropriation, misuse, dilution or unfair trade practices associated with (i) through (iv) above.

**“Licensed Components”** means those APIs, sample code and code snippets in the SDK for the applicable Digital Health Solution that are provided for use with the Test Harness or incorporation into Applications to provide interoperability with the respective eHealth Services as expressly set forth in the applicable Documentation.

**“Materials”** means all documentation, materials, platforms, software and tools, including APIs, Documentation, Licensed Components, SDKs, Test Data and Test Environment, made available to You as part of the Services.

**“Ontario EHR”** means the electronic health records created or maintained by eHealth in accordance with the requirements of the *Personal Health Information Protection Act, 2004*, as amended from time to time.

**“Personal Information”** means all recorded information that is about an identifiable individual or is defined as or deemed to be personal information pursuant to any Applicable Laws related to privacy or data protection, including personal health information.

**“Portal”** means the website or other publicly facing interface operated by eHealth through which the Services, including the Materials, Community and Test Harness are made available to You.

**“Representatives”** means, in the case of eHealth or You, any directors, officers, employees, agents, consultants or subcontractors (including service providers) to eHealth or You, as the case may be, as well as the directors, officers, employees or agents of any subcontractor, of each such party.

**“Services”** means the testing and other services provided to You under this Agreement, or any portion thereof, including access to, use of or integration with any Digital Health Solution or Materials, the Portal, Test Harness and/or Community. For clarity, You may use one or more components of the Services (e.g. You may use only the Community) and this Agreement applies to any and all components that You access or use.

“**SDK**” means a software development kit made available to You by or on behalf of eHealth pursuant to this Agreement for a particular Digital Health Solution, including any upgrades, modified versions, updates, and/or additions thereto, if any, that may be provided or made available by eHealth to You under this Agreement. The SDK specifies the APIs to be used for the respective eHealth Service and may include Documentation, sample code, code snippets, Test Data and tools to assist in implementing and testing interoperability with the respective eHealth Service.

“**Test Data**” means any data made available by eHealth or utilized by You for testing, simulating use of, or developing Applications under this Agreement. Note that Test Data does not include any real or production data, and for further clarity does not include any identifiable information about any individual or organization.

“**Test Environment**” means the testing environment made available by eHealth under this Agreement for testing, simulating use of, or developing Applications to interface with respective Digital Health Services, or for testing messaging with Digital Health Solutions through the Test Harness.

“**Test Harness**” means a software tool and Test Data configured to test a web service running it under varying conditions and monitoring its outputs. Developers can also use the Test Harness to better understand the web service, its message structure and its message content.

“Your **Applications**” means software programs that You or Your Company have developed or use to interoperate with the respective Digital Health Solutions, as part of the Services.

[insert “I Accept” button]