

SCA Information Sharing and Health Information Network Provider (HINP) Agreement

Between Centre for Family Medicine Care
Innovations and Organizations who have entered
into a Participation Agreement

Table of Contents

| | |
|--|----|
| Background | 5 |
| Article 1 – Interpretation | 6 |
| 1.1 Definitions | 6 |
| 1.2 Number and Gender | 8 |
| 1.3 References to Legislation | 8 |
| 1.4 Headings and Table of Contents | 8 |
| 1.5 Schedules | 8 |
| 1.6 Order of Precedence | 9 |
| 1.7 Governing Laws | 9 |
| 1.8 Entire Agreement..... | 9 |
| 1.9 Independent Contractors..... | 9 |
| 1.10 SCA Website | 9 |
| Article 2 – Purpose of Agreement..... | 10 |
| 2.1 Purpose | 10 |
| Article 3 – Statutory Compliance and Roles..... | 10 |
| 3.1 HICS and Non-HICs | 10 |
| 3.2 HINP | 10 |
| 3.3 Agent | 11 |
| Article 4 – Representations and Warranties..... | 11 |
| 4.1 Participant Representation and Warranties | 11 |
| 4.2 Participant Covenants | 11 |
| Article 5 – Obligations and Rights of the Participants | 12 |
| 5.1 Consent Management..... | 12 |
| 5.2 Accuracy and Completeness of Client Data | 12 |
| 5.3 Access Protocol | 12 |
| 5.4 Authorized Users – Designated Individuals | 12 |
| 5.5 Audit..... | 13 |
| 5.6 Compliance with Policies and Procedures | 13 |
| 5.7 Participant Privacy Officer, HINP Privacy Officer and Protection of Client Data | 13 |

| | | |
|--|--|----|
| 5.8 | Confidentiality and Security..... | 13 |
| Article 6 – Authorized Users | | 14 |
| 6.1 | Access Protocol | 14 |
| Article 7 – Safeguards | | 15 |
| 7.1 | Data Protection | 15 |
| 7.2 | Physical, Technical and Administrative Security Safeguards | 15 |
| 7.3 | Authorized Users..... | 15 |
| Article 8 – Client Data | | 16 |
| 8.1 | Access, Correction, Custody and Control..... | 16 |
| 8.2 | Privacy Breach..... | 16 |
| 8.3 | Complaint Process..... | 17 |
| 8.4 | Consent | 17 |
| 8.5 | Accuracy and Completeness of Data | 17 |
| 8.6 | Reporting..... | 18 |
| 8.7 | Use of Client Data and Professional Judgment | 18 |
| Article 9 – Systems and Administration | | 18 |
| 9.1 | Participant’s Responsibilities for its Infrastructure, Hardware and Software Systems | 18 |
| 9.2 | Participant Privacy Officer | 18 |
| 9.3 | No Guarantee of SCA Network Functionality | 19 |
| Article 10 – Status and Rights and Obligations of the Centre as a HINP and Agent | | 19 |
| 10.1 | HINP and Agent Status..... | 19 |
| Article 11 – Protection of Client Data by the Centre as a HINP | | 19 |
| 11.1 | Privacy and Security Safeguards | 19 |
| Article 12 – Term and Termination..... | | 21 |
| 12.1 | Term | 21 |
| 12.2 | Withdrawal of a Participant | 21 |
| 12.3 | Withdrawal by the Centre..... | 21 |
| 12.4 | Termination of Defaulting Participant | 21 |
| 12.5 | Termination of Agreement | 22 |
| 12.6 | Termination for Convenience | 22 |
| 12.7 | Consequences of Termination | 22 |
| Article 13 – Amending Procedure and Schedule Amendments | | 23 |

| | | |
|---|--|----|
| 13.1 | Amending Procedure | 23 |
| 13.2 | Schedule(s) Amendment..... | 23 |
| Article 14 – Liability and Indemnification | | 23 |
| 14.1 | Participant Indemnity | 23 |
| 14.2 | Centre Indemnity | 23 |
| 14.3 | Limitation of Liability..... | 24 |
| Article 15 – Insurance | | 24 |
| 15.1 | General Commercial Liability Insurance | 24 |
| Article 16 – Dispute Resolution..... | | 24 |
| 16.1 | Dispute Resolution Process..... | 24 |
| Article 17 – Notice..... | | 25 |
| 17.1 | Form of Notice & Contact | 25 |
| Article 18 – General | | 26 |
| 18.1 | Severability..... | 26 |
| 18.2 | Further Assurances | 26 |
| 18.3 | Force Majeure | 26 |
| 18.4 | Consent to Breach not Waiver | 26 |
| 18.5 | Changes that Affect the Agreement | 26 |
| 18.6 | Survival..... | 27 |
| 18.7 | Counterparts | 27 |
| 18.8 | Assignment..... | 27 |
| Schedule A – Form of Participation Agreement – HIC..... | | 28 |
| Schedule A(1) – Form of Participation Agreement – Non-HIC..... | | 30 |
| Schedule A(2) – Form of Participation Agreement – HIC (LHIN)..... | | 32 |
| Schedule B – SCA Website | | 34 |
| Schedule C – Service to be Provided by the Centre as a HINP and Agent | | 35 |

This Agreement is made as of October 24, 2017 (the “**Effective Date**”) between Centre for Family Medicine Care Innovations (the “**Centre**”) and **Those Organizations that have signed an agreement substantially in the form of Schedule A or Schedule A(1), as applicable** (the “**Organizations**”)

Background

- a) The Centre provides technology solutions, services and deliverables related to the System Coordinated Access Program (the “SCA Program”), which will improve and streamline access to different types of health care services and other related services within the Waterloo region and in other regions.
- b) The Centre and the Organizations provide and deliver health care and other related services to the Clients.
- c) For the purpose of the SCA Program, the Organizations would like to access the Client Data collected by the other Organizations to streamline referrals for health care services or other related services using the SCA Network (defined below in Section 1.1). The SCA Network will evolve over time as the needs of the SCA Program changes.
- d) A list of Electronic Service Providers, technology solutions and applications that comprise the SCA Network will be posted at <http://ehealthce.ca/SCA.htm> (“SCA Website”). The SCA Website will be operated, maintained and updated periodically by the Centre to reflect any changes to the Electronic Service Providers, technology solutions, and applications
- e) The Organizations are either Health Information Custodians or Non-Health Information Custodians who have signed the corresponding participation agreements as set out in Schedule A and Schedule A(1) (the “Participation Agreement”).
- f) Upon signing the Participation Agreement and delivering a copy of the signed Participation Agreement to the Centre, the Organization will be considered as an original party to this Agreement.
- g) All Organizations who have signed and delivered a Participation Agreement set out in Schedule A and Schedule A(1), together with the Centre itself, will be collectively known as the “Participants” for the purpose of this Agreement.
- h) The Participants may also be required to sign additional agreements, separate from this Agreement, granting them a license to use the SCA Network. These agreements may set out additional terms and conditions for the use of the SCA Network.
- i) The Centre is a HIC and a Participant of the SCA Program.
- j) The Centre also acts as a Health Information Network Provider and as an Agent, as those terms are defined under PHIPA, to provide the Services (defined herein) to enable the Participants to use electronic means to disclose Client Data to one another.
- k) The Participants appoint the Centre as the Health Information Network Provider to provide electronic services to the Participants to enable the sharing of Client Data electronically with each other and as an Agent to collect, use and disclose Client Data on behalf of the Participants for the SCA Program.

- l) The Centre also serves as the SCA program office to the SCA Program by providing a model to support the coordinated and integrated implementation and expansion of eReferral across participating LHINs and providing three main areas of support to the SCA Program, which is further described online at the SCA Website (“SCA Program Office”).no Participant shall have any right to obligate or bind any other Participant in any manner whatsoever. Each Participant shall ensure that neither it nor any of its agents represents to any third party that it or they have authority to bind any other Participant.

Article 1 – Interpretation

1.1 Definitions

- 1.1.1. The terms “collect”, “disclose”, “use”, “health care”, “individual”, “information practices” and “record” shall have the respective meanings ascribed thereto by PHIPA.
- 1.1.2. “Access Protocol” is defined in section 6.1.1.
- 1.1.3. “Agent” has the same meaning set out in PHIPA.
- 1.1.4. “Agreement” means this Agreement, and includes any amendments, supplements, schedules, exhibits or appendices attached hereto, and any duly authorized amendments hereto.
- 1.1.5. “Applicable Laws” means any and all applicable federal, provincial, or municipal laws, bylaws, regulations or statutes as are in existence as of the Effective Date or come into existence during the currency of this Agreement, as the same may be amended, re-enacted, consolidated and/or replaced, from time to time, and any successor to any of the foregoing.
- 1.1.6. “Authorized User” means any staff or personnel of a Participant who is authorized to access the SCA Network for the SCA Program.
- 1.1.7. “Authorized User Terms and Conditions” is defined in section 6.1.1.5.
- 1.1.8. “Business Day” means Monday to Friday from 9:00 a.m. to 5:00 p.m. exclusive of statutory holidays in Ontario.
- 1.1.9. “Centre” is defined in the preamble preceding the recitals.
- 1.1.10. “Client” means, in respect of any PHI, the individual to whom the information relates.
- 1.1.11. “Client Data” means the PHI of the Clients who are treated or serviced by the Participants.
- 1.1.12. “Confidential Information” means any oral, written or electronic data, including business information, personal information or personal health information that a Participant or the Centre in its capacity as a HINP or Agent, deliberately or inadvertently provides to another Participant which is treated as confidential by the disclosing Participant or the Centre or would reasonably be treated as confidential by the disclosing Participant or the Centre;
- 1.1.13. “Contingency Plan” is defined in section 11.1.6.
- 1.1.14. “Designate” is defined in section 5.7.1.
- 1.1.15. “Effective Date” means the date first above written in the preamble preceding the recitals.

- 1.1.16. “Electronic Service Provider” means any vendor or its subcontractors engaged to provide information systems, management, or technology on behalf of the Centre to support the Centre’s role as a HINP and Agent.
- 1.1.17. “Health Information Custodian” or “HIC” means a health information custodian as that term is defined in PHIPA.
- 1.1.18. “Health Information Network Provider” or “HINP” has the meaning set out in PHIPA, being a person who provides services to two or more Health Information Custodians primarily to enable them to use electronic means to disclose Personal Health Information to one another.
- 1.1.19. “HINP Privacy Officer” is the individual designated by the Centre, in its capacity as a HINP, to manage implementation of the Privacy and Security Incident Identification and Management Process policy, which is included in the SCA Privacy Guide. The contact information of the HINP Privacy Officer may be found on the SCA Website.
- 1.1.20. “Indemnitee” means a party and its agents, employees, officers, and directors.
- 1.1.21. “Indemnitor” means a party and its agents, employees, officers, and directors.
- 1.1.22. “Ministry” means the Ministry of Health and Long-Term Care.
- 1.1.23. “Non-Health Information Custodian” or “Non-HIC” is an Organization that is not a HIC under PHIPA.
- 1.1.24. “Organization” is defined in the preamble preceding the recitals.
- 1.1.25. “Originating Participant” means the Participant from whose electronic health information system such Client Data is disclosed to the other Participant through the SCA Network.
- 1.1.26. “Participants” is defined in the recitals.
- 1.1.27. “Participant Agreement” means the form of agreement signed by the Participant in the form of either Schedule A or Schedule A(1).
- 1.1.28. “Participant Privacy Officer” means the individual designated by the Participant to protect the Client Data received by the Participant receives.
- 1.1.29. “Personal Health Information” or “PHI” has the same meaning as set out in PHIPA.
- 1.1.30. “PHIPA” means the Personal Health Information Protection Act, 2004 (Ontario) and its regulations thereunder.
- 1.1.31. “Privacy Breach” means the theft or loss of Client Data and unauthorized access, use, disclosure, modification or destruction by Client Data.
- 1.1.32. “Privacy Officer” includes the Privacy Officers for each Participant and the HINP Privacy Officer. The names and contact information of the Privacy Officers of the parties are set out on the SCA Website and in the Participant Agreements.
- 1.1.33. “Process”, “processing” and “processes” and grammatical variations thereof means any use of or operation or set of operations which is performed upon or in connection with Client Data by any means and in any form or medium including without limitation collection, recording, analysis, consultation, organization, maintenance, storage, adaptation, retrieval, disclosure or otherwise making available, erasure or destruction.

- 1.1.34. "Privacy and Security Incident Management Process" means the Integrated Privacy and Security Incident Identification and Management Policy, which will be provided by the Centre to the Participants along with the SCA Privacy Guide.
- 1.1.35. "Receiving Participant" means the Participant to which Client Data is disclosed from another Participant through the SCA Network;
- 1.1.36. "Regulation" means O. REG 329/04 of PHIPA.
- 1.1.37. "SCA Privacy Guide" is defined in section 5.6.1.
- 1.1.38. "SCA Network" or "System Coordinated Access Network" means the System Coordinated Access eReferral network, an electronic web-based, referral management and appointment- booking platform consisting of a connected network of technology solutions and applications supporting electronic referral and improved access to services in Ontario. The SCA Network is operated by the Electronic Service Provider(s). It is further described in Schedule C.
- 1.1.39. "SCA Program" means the System Coordinated Access program as defined in the recitals.
- 1.1.40. "SCA Program Office" is defined in the recitals.
- 1.1.41. "SCA Website" is defined in the recitals and the link can be found at <http://ehealthce.ca/SCA.htm>.
- 1.1.42. "Services" means the information systems, information management and information technology services further described Schedule C to be provided by the Centre in its capacity as a HINP and as an Agent; and
- 1.1.43. "Steering Committee" is made up of the representatives of the SCA Program that oversees and governs the SCA Program (see terms of reference on SCA Website)

1.2 Number and Gender

Words importing the singular number include the plural and vice versa and words importing gender include masculine, feminine and neutral genders.

1.3 References to Legislation

Any reference to a statute in this Agreement shall mean the statute in force as at the Effective Date together with all regulations made thereunder and interpretation bulletins, guidelines and policy statements published or issued in respect thereof, as the same may be amended, re-enacted, consolidated and/or replaced, from time to time, and any successor statute or regulation thereto, unless otherwise expressly provided.

1.4 Headings and Table of Contents

The division of this Agreement into separate articles, sections, subsections and schedules, the provision of a table of contents and the insertion of headings and captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.5 Schedules

The schedules that form part of this Agreement ("Schedules") are listed as follows:

- 1.5.1 Schedule A – Participation Agreement - HIC
- 1.5.2 Schedule A(1) – Participation Agreement – Non-HIC
- 1.5.3 Schedule B – SCA Website
- 1.5.4 Schedule C – Services to be provided by the Centre as a Health Information Network Provider and Agent

1.6 Order of Precedence

In the event of any conflict between any of the provisions of the Schedules hereto and the body of this Agreement, the provisions in the body of this Agreement shall govern.

1.7 Governing Laws

This Agreement shall be governed by the laws of Ontario and the federal laws applicable therein. The parties consent and submit to the exclusive jurisdiction of the courts of the Province of Ontario in any action or proceeding instituted under this Agreement.

1.8 Entire Agreement

This Agreement including all attached Schedules constitutes the entire Agreement between the parties pertaining to the subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no warranties, representations or other agreements between the parties in connection with the subject matter except as specifically set out in this Agreement.

1.9 Independent Contractors

This Agreement does not constitute and shall not be construed as constituting a partnership, principal-agent, employment relationship or joint venture between the parties. Except as expressly set out herein, no Participant shall have any right to obligate or bind any other Participant in any manner whatsoever. Each Participant shall ensure that neither it nor any of its agents represents to any third party that it or they have authority to bind any other Participant.

1.10 SCA Website

The operational, administrative and technological components of the SCA Program will be on the SCA Website and is further described in Schedule B. The Participants shall check the SCA Website periodically to be informed of any changes or updates to the SCA Program and SCA Network.

Article 2 – Purpose of Agreement

2.1 Purpose

The purpose of this Agreement is to outline the privacy and security responsibilities, obligations and rights of:

- 2.1.1 each Participant for the sharing of Client Data through the SCA Network; and
- 2.1.2 the Centre as a HINP and an Agent for the provision of Services to the parties to this Agreement.

Article 3 – Statutory Compliance and Roles

3.1 HICS and Non-HICs

Each Participant acknowledges and agrees that:

- 3.1.1 if it is a HIC as defined under PHIPA, it must comply with its obligations of a HIC as set out in PHIPA;
- 3.1.2 if it is a Non-HIC, it must comply with the obligations as set out of a HIC in this Agreement as if it were a HIC with respect to the Processing of Client Data;
- 3.1.3 it is subject to and will comply with Applicable Laws;
- 3.1.4 if and to the extent that a Participant is aware that a specific Client has withheld or withdrawn consent to such collection, use or disclosure unless permitted or required by law it will not transfer Client Data to the Centre and will not access the Client Data of another Participant through the SCA Network; and
- 3.1.5 Authorized Users will access the Client Data of the other Participants solely for the purpose of providing health care services and other related services, or assistance in the provision of health care and other related services to the Clients for the SCA Program.

3.2 HINP

Each Participant acknowledges and agrees that:

- 3.2.1 the Centre, when providing the Services to enable the Participants that are HICs to use electronic means to disclose Client Data to one another, is a HINP and shall comply with the requirements with respect to HINP in accordance with PHIPA and this Agreement;
- 3.2.2 the Centre, when providing the Services to enable the parties that are Non-HICs to use electronic means to disclose Client Data to one another, is not acting as a HINP or an Agent;
- 3.2.3 the Participants that are Non-HICS will not be subject to the rights or protections of PHIPA. Notwithstanding the foregoing, the Centre will comply with the requirements of HINP and Agent in accordance with this Agreement;
- 3.2.4 the Centre's making Client Data available in its capacity as a HINP through the SCA Network does not constitute a disclosure by a Participant to the Centre and does not constitute a collection by the Centre;

- 3.2.5 the Centre must enter into the Participation Agreement as set out in Schedule A with each HIC with respect to the Services to be provided to the HIC and the Participant Agreement; and
- 3.2.6 the Centre must enter into a Participation Agreement as set out in Schedule A(1) with each Non-HIC with respect to the Services.

3.3 Agent

- 3.3.1 The Centre is an Agent on behalf of the Participants to collect, use and disclose Client Data on behalf of the Participants to carry out the Services.

Article 4 – Representations and Warranties

4.1 Participant Representation and Warranties

Each Participant represents and warrants that:

- 4.1.1 it has developed and implemented the required policies and procedures relating to the confidentiality, security and privacy of Client Data required under Applicable Laws, including but not limited to those dealing with obtaining consent, requests for access to and correction of Client Data, complaints, Client Data retention, destruction and Privacy Breaches;
- 4.1.2 it is duly authorized to enter into this Agreement;
- 4.1.3 no bankruptcy, insolvency or receivership proceedings have been instituted or are pending against the Participant, and the Participant is able to satisfy its liabilities as they become due;
- 4.1.4 neither the execution and delivery of this Agreement by the Participant, nor the performance of the Participant's obligations hereunder, will conflict with, or result in a breach of, or constitute a default under, any provision of its incorporating documents or by-laws, any Applicable Laws, any decree of any court, arbitrator or governmental agency, or any contract, agreement or instrument to which it is a party or subject to, or by which its property is bound or affected;
- 4.1.5 there is no proceeding in progress or pending or threatened against, related to or affecting the Participant which might be expected to have a materially adverse effect on the Participant's ability to meet its obligations under this Agreement;
- 4.1.6 no authorization, approval or consent of any person is required in connection with the Participant's execution and delivery of this Agreement and performance of its obligations hereunder; and
- 4.1.7 the individuals executing this Agreement on its behalf are authorized to sign on its behalf and to bind it to the terms and conditions of this Agreement.

4.2 Participant Covenants

The Participant covenants to the Centre as follows, such covenants to remain in effect throughout the term of this Agreement:

- 4.2.1 the Participant shall not, in the performance of this Agreement, infringe or violate any patent, copyright, trade secret, trade mark, industrial design, or any other intellectual property right of any person or entity;
- 4.2.2 the Participant shall comply with all Applicable Laws in fulfilling its obligations under this Agreement;
- 4.2.3 the Participant has designated its Privacy Officer as being responsible for the protection of PHI and the privacy of Clients relative to this Agreement;
- 4.2.4 the Participant shall comply with the Participant obligations set out in this Agreement and in the applicable Participation Agreement set out in Schedule A or A(1); and
- 4.2.5 the Participant shall perform its roles and responsibilities in connection with any new HIC or Non-HIC that becomes a Participant by signing the Participation Agreement, effective the date of such signed Participation Agreement, as if such Participant had been an original signatory to this Agreement.

Article 5 – Obligations and Rights of the Participants

5.1 Consent Management

Each Participant will:

- 5.1.1 obtain the consent of its Clients, as described in online at the SCA Website; and
- 5.1.2 upon obtaining the consent from its Clients, transmit and make Client Data accessible to other Participants electronically via the SCA Network.

5.2 Accuracy and Completeness of Client Data

- 5.2.1 Subject to section 8.5, each Participant will use reasonable efforts to ensure that the Client Data is accurate, complete and up-to-date or set out any limitations on the accuracy, completeness and currency of the Client Data.

5.3 Access Protocol

- 5.3.1 Each Participant will develop an Access Protocol as set out in section 6.1 and ensure all Authorized Users comply with the Access Protocol.

5.4 Authorized Users – Designated Individuals

- 5.4.1 Each Participant will designate one or more individuals who will be responsible for the following activities with respect to the access of its Authorized Users to the SCA Network:
 - 5.4.1.1 registration through the provision of a unique user account;
 - 5.4.1.2 authentication of the user accounts and management of the user accounts on an ongoing basis; and
 - 5.4.1.3 monitor use in accordance with the requirements of PHIPA and this Agreement.

- 5.4.2 Each Participant will provide support for use of the SCA Network, including but not limited to, the provision of training and user support to Authorized Users.
- 5.4.3 Each Participant will terminate the use by its Authorized Users if the authorization for the Authorized User has been terminated or if its Participation Agreement is terminated.

5.5 Audit

- 5.5.1 Each Participant shall have the right at any time and from time to time, as its own expense, to audit and verify, both physically and electronically, compliance with this Agreement by any of the other Participants. If there are multiple Participants who wish to audit other Participants together, the costs of the audits will be shared between the Participants. Any Participant wishing to exercise its rights under this section shall do so only upon the provision of at least ten (10) Business Days prior notice of its requirement for such audit to the Participant that is to be the subject of the audit and verification, and agreement with that Participant as to the manner in which the audit and verification is to be performed. An audit as described in this section can only be undertaken once a year by the Participant(s) and shall not materially interfere or disrupt a Participant's operation of business. The Participants shall reasonably cooperate with requests by the other Participants for audit and verification. Participants' obligations under this section shall survive any termination or expiry of this Agreement.

5.6 Compliance with Policies and Procedures

- 5.6.1 Each Participant agrees to adhere to jointly adopted policies and procedures as set out by the Centre in the System Coordinated Access Privacy Guide ("SCA Privacy Guide"), which will be provided to the Participants upon signing of the Participation Agreements.

5.7 Participant Privacy Officer, HINP Privacy Officer and Protection of Client Data

- 5.7.1 Each Participant has designated a primary person responsible for the protection of Client Data and the privacy of Clients ("Participant Privacy Officer") and, in addition, the Centre, in its role as the HINP, has designated a primary person responsible for the protection of Client Data in the SCA Network (the "HINP Privacy Officer"), as specified on the SCA Website. Any Participant Privacy Officer and the HINP Privacy Officer may delegate their responsibilities and authority under this Agreement to another individual within their respective organization ("Designate") on notice to the other Participants.

5.8 Confidentiality and Security

- 5.8.1 Each Participant shall keep the Client Data from another Participant confidential and secure and shall use the same degree of care to protect that Client Data as it would to protect its own Client Data, but in any event shall not use a standard of care that is less than a reasonable standard of care.
- 5.8.2 Each Participant will hold the Centre's Confidential Information in strictest confidence, and in any case with no less protection and security than each Participant protects its own Confidential

Information.

- 5.8.3 In the event that a Participant receives a court order or other lawful requirement of a court or government agency of competent jurisdiction requiring the disclosure of some or all of a Participant's or the Centre's Confidential Information, the Participant shall (if reasonably practicable) first advise the impacted Participant or the Centre about the receipt of such court order so that the Participant or the Centre may be given an opportunity to intervene, and to seek a protective order against such disclosure. This obligation survives the termination or expiration of this Agreement.

Article 6 – Authorized Users

6.1 Access Protocol

- 6.1.1 In accordance with a Participant's internal protocol for access to the SCA Network (the "Access Protocol"), only Authorized Users will be granted access to the SCA Network. The Participants agree that the Access Protocol will, among other items, require that each Authorized User has:
- 6.1.1.1 access to Client Data in the SCA Network only for the purposes of performing his or her role and duties for the SCA Program;
 - 6.1.1.2 entered into a written confidentiality agreement with respect to Client Data accessed through the SCA Network;
 - 6.1.1.3 undergone the requisite training to use the SCA Network;
 - 6.1.1.4 undergone privacy and security training; and
 - 6.1.1.5 agreed to comply with the terms and conditions set out by the Electronic Service Provider prior to being granted access to the SCA Network (the "Participant License Agreement").
- 6.1.2 No Participant shall grant access to the SCA Network to an Authorized User unless such person has met all the requirements set out in its Access Protocol.
- 6.1.3 Each Participant agrees that making available Client Data to the SCA Network in accordance with the provisions of this Agreement shall entitle the Authorized Users to access such Client Data and that, if a Client withdraws their consent, the Client Data shall no longer be available to the Authorized Users as described on the SCA Website but may continue to be accessed by the Centre, in its capacity as a HINP and Agent, solely for the purposes of providing the Services.
- 6.1.4 The Authorized User Terms and Conditions may be modified as may be appropriate or necessary in light of new developments and changes, which include but is not limited to legislative or regulatory changes. A copy of such revised Authorized User Terms and Conditions will be provided to each Participant and will be modified on the log on page of the SCA Network. The Participants must ensure that Authorized Users agree to Participant License Agreement, as presented on the SCA Network log on page, before they can access the SCA Network.

- 6.1.5 If a Participant revokes or suspends an Authorized User's right of access to Client Data, such Participant shall at the same time revoke or suspend, as the case may be, such Authorized User's access to the SCA Network.
- 6.1.6 If such suspension or revocation as described in section 6.1.5 is the result of an actual or alleged Privacy Breach by such Authorized User, the Participant must follow the Privacy and Security Incident Management Process set out in the SCA Privacy Guide.
- 6.1.7 If a Participant is of the view that an Authorized User of another Participant has failed to comply with the responsibilities and obligations as set out in this Agreement, and under Applicable Laws, the Participant shall give notice to the Centre, copying other Participant outlining its concerns and request that the Authorized User's access to the SCA Network be suspended immediately. The other Participant shall terminate such Authorized User's access to the SCA Network unless it is satisfied, after having investigated the facts alleged in the notice, that the Authorized User is in compliance with this Agreement.
- 6.1.8 Each Participant is responsible for the actions of its Authorized Users in connection with Client Data.
- 6.1.9 Each Participant has a current and accurate record of its Authorized Users and will provide to the Centre upon request.
- 6.1.10 Authorized Users may access the SCA Network at his or her place of work at the business location of the Participant or remotely with the appropriate authorization by the Participant. The Participant must ensure that Authorized Users who have remote access to the SCA Network have implemented and will continue to maintain privacy, security and technical safeguards to prevent the unauthorized collection, use and disclosure of Client Data. The Authorized Users may only access remotely to the SCA Network through the SCA Network website.

Article 7 – Safeguards

7.1 Data Protection

Each Participant agrees to continue to meet or exceed the level of data protection afforded to Client Data pursuant to the Applicable Laws.

7.2 Physical, Technical and Administrative Security Safeguards

Each Participant agrees to maintain appropriate physical, technical and administrative security safeguards that are consistent with this Agreement and that are reasonably necessary to prevent unauthorized persons from accessing, collecting, using, disclosing, modifying, disposing, copying, stealing or otherwise committing any other act that could breach or compromise the privacy, availability, accessibility, integrity, structure, format or content of Client Data.

7.3 Authorized Users

Each Participant agrees on its own behalf and on behalf of its Authorized Users:

- 7.3.1 that Client Data will not be:

- 7.3.1.1 used, collected, and disclosed except in accordance with this Agreement, PHIPA and any other Applicable laws;
 - 7.3.1.2 downloaded to and/or stored on any mobile computing device unless such device is enabled with encryption technology that automatically encrypts such data upon downloading to the device;
 - 7.3.1.3 communicated to another Participant through any other electronic means except for the SCA Network; and
 - 7.3.1.4 retained longer than necessary; and
- 7.3.2 to maintain the confidentiality of any user names, computer passwords or access codes for the SCA Network.

Article 8 – Client Data

8.1 Access, Correction, Custody and Control

- 8.1.1 Client Data of a Participant shall remain in the custody and under the control of such Participant for the purposes of PHIPA.
- 8.1.2 If and to the extent that a Participant collects Client Data through the SCA Network, such Participant shall be deemed to have custody of the Client Data for purposes of PHIPA, and shall, subject to section 8.1.3, be subject to all the duties and obligations of a HIC in respect of such Client Data and to the Client to whom it relates.
- 8.1.3 No Participant shall have authority to provide access to or make any correction to any Client Data related to a Client that was created by another Participant and shall so advise any Client (or substitute decision-maker of a Client) who requests any such access or correction. Any such request for access or correction shall be directed back to the Participant who is responsible for creating the Client Data within three (3) Business Days of the receipt of such request.
- 8.1.4 If a Participant becomes aware of an error in its Client Data in the SCA Network, it shall, as soon as is reasonably practicable and in any event no later than three (3) Business Days after it becomes aware of such error, rectify the error. When a Participant corrects its Client Data pursuant to the provisions of section 8.1.3 or this section, it shall ensure that both the original and corrected Client Data are available in the SCA Network, with the corrected Client Data so noted.

8.2 Privacy Breach

- 8.2.1 If a Participant Privacy Officer becomes aware of an actual, suspected or potential Privacy Breach involving its own Client Data or Client Data related to a Client of another Participant, the Participant Privacy Officer shall, within three (3) Business Days, notify the HINP Privacy Officer, or designate as set out on the SCA Website.

8.2.2 If any Participant becomes aware that any Client Data in the SCA Network has been subject to a Privacy Breach that has resulted from a failure of or problem in the SCA Network, it shall immediately notify the HINP Privacy Officer and provide reasonable particulars of such occurrence. The HINP Privacy Officer shall immediately implement the Integrated Privacy and Security Incident and Breach Management Policy as set out in the SCA Privacy Guide.

8.3 Complaint Process

8.3.1 If any Participant receives a complaint from a Client, another Participant or the Office of the Information and Privacy Commissioner/Ontario about the processing of Client Data, such Participant shall no later than three (3) Business Days after its receipt:

8.3.1.1 forward the complaint to the applicable Participants to respond in accordance with the provisions of PHIPA if the complaint relates to the collection, use or disclosure of the Client Data by the Originating Participant; or

8.3.1.2 if the Participant receiving the complaint holds the opinion that the complaint relates to the management of the Client Data within the SCA Network, forward the complaint to HINP Privacy Officer provided that any notification required of the Client shall be done by the Originating Participant and the HINP Privacy Officer shall provide the particulars to the Originating Participant so that it may notify the Client.

8.4 Consent

8.4.1 If a Participant does not have the consent of the Client to disclose all of the Client Data to other parties, or a Client subsequently withdraws his/her consent to the provision of all of the required Client Data to the SCA Network, then the Participant shall provide only that Client Data for which it has such consent, or for which such consent has not been withdrawn. The Participant shall notify the other Participants, in accordance with PHIPA, that the Participant is not disclosing all the Client Data that it considers reasonably necessary for the purpose of providing health care or other related service or assisting in providing health care or other related services to the Client.

8.5 Accuracy and Completeness of Data

8.5.1 No Participant:

8.5.1.1 warrants or represents to any other Participant the accuracy, currency, or completeness (excluding the obligations in section 8.4.1 above) of any Client Data collected by a Participant through the SCA Network; and

8.5.1.2 shall not be held liable or responsible in any way for clinical uses of, or decision-making processes relating to the use of, any such Client Data by a Participant.

8.5.2 Each Participant acknowledges that any access to the Client Data of another Participant is at its own discretion and risk.

8.5.3 The Participants agree and acknowledge that the Centre:

8.5.3.1 does not warrants or represents to any Participant the accuracy, currency, or completeness of any Client Data collected by the Centre in its capacity as a HINP and as an Agent through the SCA Network; and

8.5.3.2 shall not be held liable or responsible in any way for clinical uses of, or decision- making processes relating to the use of, any such Client Data by a Participant.

8.6 Reporting

8.6.1 The parties acknowledge and agree that the SCA Network contains Client Data that could be used by Participants for health care and reporting and quality improvement strategies in accordance with PHIPA (“Reporting”) as further described in Schedule C. Pursuant to PHIPA, the Centre will act as an Agent on behalf of the Participants in the collection, use and disclosure of Client Data. All Client Data saved in the SCA Network is encrypted or de- identified. The Participant shall only share Client Data obtained through the SCA Network for the Purpose in accordance with PHIPA.

8.7 Use of Client Data and Professional Judgment

8.7.1 Each Participant acknowledges that its access, including access by its Authorized Users to the Client Data in SCA Network, is at that Participant’s own discretion and risk. The Participant must ensure its staff and agents exercise professional judgment in the use of any Client Data from any Originating Participant.

Article 9 – Systems and Administration

9.1 Participant’s Responsibilities for its Infrastructure, Hardware and Software Systems

9.1.1 Each Participant shall be responsible for ensuring the integrity and good working order of its own infrastructure, hardware and software systems so as not to compromise the SCA Network functionality or availability for any other Participant.

9.2 Participant Privacy Officer

9.2.1 Each Participant shall designate its Privacy Officer, or other officer acting in a similar capacity, to act as a single point of contact for such Participant in connection with all matters concerning the performance by it of its respective obligations under this Agreement.

9.2.2 The Participant will ensure that the Participant Agreement as set out in Schedule A or A(1) as applicable will list the name, address, telephone number, facsimile number, and e-mail address of each Participant’s Privacy Officer. Any Participant may at any time change its designated Privacy Officer upon written notice to the HINP Privacy Officer in accordance with the terms of this Agreement.

9.2.3 The Participant Privacy Officer shall be responsible for coordinating and overseeing the timely performance of the obligations of such Participant under this Agreement.

9.3 No Guarantee of SCA Network Functionality

- 9.3.1 The Centre does not represent, warrant or guarantee in any way the functionality of the SCA Network. The SCA Network functionality is largely dependent on the Electronic Service Provider. Each of the Participants acknowledges that the Centre is not a commercial provider of information technology services and that its ability to provide Participants with access to the SCA Network is subject to the Centre's own contractual relationship with the Electronic Service Provider.
- 9.3.2 Each Participant acknowledges that periodically it will be necessary for the Centre or the Electronic Service Provider to temporarily take all or portions of the SCA Network off-line in order to perform software upgrades or hardware maintenance or due to other factors that may arise from time to time. The Centre will use commercially reasonable efforts to provide advance notice of any planned downtime affecting access and will try to schedule such downtime so as to minimize the disruption of access to the SCA Network.

Article 10 – Status and Rights and Obligations of the Centre as a HINP and Agent

10.1 HINP and Agent Status

- 10.1.1 The Centre, in addition to being a Participant, shall be the HINP for the SCA Network and shall comply with all of the obligations of a HINP under the PHIPA. The Centre may collect, use and disclose Client Data as permitted in its role as a Participant in the SCA Program except as specified otherwise in this Agreement.
- 10.1.2 The Centre acknowledges and agrees that it is also an Agent of the Participants when acting as HINP and shall comply with Applicable Laws.
- 10.1.3 Subject to the terms and conditions of this Agreement, the Centre agrees to provide the Services to the parties as described in Schedule C.
- 10.1.4 The parties may agree to the provision of additional services by the Centre by amendment to Schedule C in accordance with the terms of this Agreement.

Article 11 – Protection of Client Data by the Centre as a HINP

11.1 Privacy and Security Safeguards

- 11.1.1 The Centre represents and warrants that it has the administrative, technical and physical safeguards necessary to fulfil its obligations as a HINP, as set out in Security Standards and Procedures Notice which will be posted on the SCA Website. Upon request, the Centre will provide any Participant with a copy of its policies and procedures for the security and protection of Client Data managed by it and/or a copy of the policies and procedures for the security and protection of Client Data managed by its subcontractors, as applicable. These policies and procedures will be posted on the SCA Website.

- 11.1.2 The Centre shall designate an individual as the HINP Privacy Officer to oversee privacy and security safeguards.
- 11.1.3 The Centre shall not implement any change to its security systems, standards or policies and procedures that may, in the reasonable opinion of the other parties, have an adverse effect on the provision of Services or on the security of any Client Data that it manages of any Client of the other parties without the express agreement of the other parties. No Participant shall implement any change to its security systems, standards or policies and procedures that may, in the reasonable opinion of the Centre, have an adverse effect on the provision of Services or on the security of any Client Data that the Centre processes without the express agreement of the Centre.

The Centre shall refer all requests by third parties (other than Authorized Users) for access to any Client Data in its possession or control to the Participant from whom such Client Data originated. The Centre shall not disclose any Client Data to third parties, except with the prior written consent of the applicable Participant or parties or as may be required by Applicable Laws. Such prior written consent may be subject to conditions or limitations reasonably imposed by the applicable Participant or parties. In each circumstance in which the Centre is authorized pursuant to this Agreement to disclose Client Data, it shall disclose only such Client Data as strictly is necessary in connection with such authorized disclosure.

- 11.1.4 Both during the term of this Agreement and after any termination or expiry thereof, the Centre shall retain all Client Data governed by this Agreement for such period of time as is necessary to satisfy the requirements of the retention policies of the parties which shall comply with all Applicable Laws and applicable professional practice rules. The Centre shall ensure that retention and destruction of Client Data is logged and documented, and upon request, a written or electronic copy of the log is provided to the Participants. Notifications will be sent by the Centre or the Electronic Service Provider or the SCA Network, as applicable, to the Participant's as required to warn of pending destruction of such Participant Client Data. Subject to the preceding sentence, the Centre shall destroy all records of such Client Data in a secure manner. For greater certainty, the provisions of this Section shall survive any termination or expiry of this Agreement.
- 11.1.5 The Centre may subcontract its Services to an Electronic Service Provider or to any other third party to provide the Services. The Electronic Service Provider or any other third party may subcontract the Services only with prior approval from the Centre. The Centre shall ensure that any third party it retains to assist in providing Services to the parties in connection with this Agreement shall be required to comply with the restrictions, conditions and security safeguards applicable to the processing of Client Data.
- 11.1.6 The Centre shall implement and maintain during the term of this Agreement, such contingency measures as may be reasonably necessary including, without limitation, a comprehensive business resumption and contingency plan (the "Contingency Plan") to ensure that a disruption or deterioration in the performance of its obligations under this Agreement is reasonably unlikely under various scenarios including, without limitation, computer system breakdowns, fire and natural disasters.

- 11.1.7 The Centre shall test the effectiveness of the Contingency Plan on a regular, periodic basis, but no less frequently than once every six (6) months and shall promptly report such test results to the other parties.
- 11.1.8 The other parties shall have the right to review, upon demand and from time to time, the Contingency Plan, and the Centre shall provide to the other parties at least thirty (30) days' prior written notice of any material change to the Contingency Plan that is or may be relevant to the other parties.
- 11.1.9 Without restricting the foregoing provisions of this Article, in the course of providing Services, the Centre shall comply with all Applicable Laws relating to the protection of the Client Data, including without limitation, the provisions of PHIPA and its regulations.

Article 12 – Term and Termination

12.1 Term

- 12.1.1 Subject to this Article 12, the term of this Agreement shall be in effect as of the Effective Date and shall continue in effect until terminated as contemplated in this Agreement

12.2 Withdrawal of a Participant

- 12.2.1 A Participant (“Withdrawing Participant”) shall have the right to withdraw from and terminate its rights and obligations under this Agreement upon providing not less than ninety (90) days’ written notice to the Centre. The Centre may waive such notice in its discretion, acting reasonably. The Centre shall provide any such notice to the Steering Committee and the other Participants.

12.3 Withdrawal by the Centre

- 12.3.1 The Centre shall have the right to withdraw from and terminate its rights and obligations as the entity providing some or all of the Services under this Agreement upon providing not less than six (6) months’ written notice to the Steering Committee. At such time the Steering Committee shall take such actions as are necessary to find a replacement service provider (either another Participant or a third party) to provide the Services that the Centre is withdrawing from providing.

12.4 Termination of Defaulting Participant

- 12.4.1 If a Participant (the "Defaulting Participant"):
- 12.4.1.1 is in default of its obligations hereunder;
 - 12.4.1.2 ceases to carry on business in the normal course;
 - 12.4.1.3 becomes or is declared insolvent or bankrupt; or

- 12.4.1.4 is subject to any proceeding relating to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes a general assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension or readjustment of all or substantially all of its obligations, the other parties or the Centre, as applicable, may give notice of default to the Defaulting Participant, specifying the nature of the default, and if the Defaulting Participant has not, within two weeks after receipt of such notice, cured such default (or, if such default is not reasonably capable of being cured within such period, begun and continued diligently to cure it to the satisfaction of the parties), the notifying parties or the Centre may, by further notice to the Defaulting Participant, terminate this Agreement with respect to the Defaulting Participant.

12.5 Termination of Agreement

This Agreement will terminate in the following circumstances:

- 12.5.1 should the withdrawal or termination of Participants under this Agreement leave only one Participant remaining;
- 12.5.2 upon the agreement of all Parties to terminate this Agreement; or
- 12.5.3 upon an order or direction from the Minister of Health and Long-Term Care for the Province of Ontario, or another regulatory body that is inconsistent with the ability of the Parties to fulfill the terms of this Agreement, or in the event that insufficient funding is available to support the SCA Network, the Centre may terminate this Agreement.

12.6 Termination for Convenience

- 12.6.1 With the exception of the Centre in its capacity as a HINP, which must provide six (6) months' prior written notification to the other parties, any Participant may terminate its participation in the Agreement for convenience, upon ninety (90) days' prior written notice to the other parties.

12.7 Consequences of Termination

- 12.7.1 For greater certainty, any Client Data uploaded to the SCA Network by the Receiving Participant, Withdrawing Participant or Defaulting Participant remains in the SCA Network. The Receiving Participant, Withdrawing Participant or the Defaulting Participant will immediately take all necessary action to suspend access by its Authorized Users to the SCA Network and cease uploading Client Data to the SCA Network upon termination from this Agreement. Upon the date of termination, the Centre as the HINP shall ensure that the Participant's access, including access by all of its Authorized Users, is terminated. Any Client Data uploaded to the SCA Network by the Defaulting Participant will no longer be updated.
- 12.7.2 Upon termination of this Agreement, all parties will immediately take all necessary action to suspend access by its Authorized Users to the SCA Network and the Centre, in its role as HINP, shall ensure that the access by the parties shall be terminated within one (1) Business Day after having received notification of such termination.

- 12.7.3 Notwithstanding that if a Participant's access to the SCA Network has been terminated, the Client Data disclosed to such Participant and forms part of individual records of Client Data shall remain with the Participant, which shall remain subject to all of its duties and obligations in respect thereof under Applicable Laws.

Article 13 – Amending Procedure and Schedule Amendments

13.1 Amending Procedure

- 13.1.1 This Agreement may be amended by the written agreement of the parties.
- 13.1.2 Without limiting the generality of subsection 13.1.1, at any time and from time to time during the Term of this Agreement, any of the parties may request an amendment (a “Schedule Amendment”) to the Schedules. The Participant submitting the request shall specify the nature of the proposed Schedule Amendment and the reasons for such a request.

13.2 Schedule(s) Amendment

- 13.2.1 The Schedule Amendment shall be reviewed by the affected parties and, if deemed appropriate, shall be executed by the affected parties and deemed incorporated into the Agreement for the affected parties.

Article 14 – Liability and Indemnification

14.1 Participant Indemnity

- 14.1.1 Each Participant (an “Indemnitor”) shall indemnify, defend and hold harmless each other Participant and its agents, officers, and directors, (collectively, “Indemnitees”), from and against all loss, cost and expense, including all legal expense on a full recovery basis, incurred by the Indemnitees or any of them as a result of or arising from any:
- 14.1.1.1 inaccuracy, breach or alleged breach by the Indemnitor of any of its representations, warranties, covenants, or other obligations in this Agreement;
 - 14.1.1.2 default by the Indemnitor in the performance of any of its duties or obligations hereunder;
 - 14.1.1.3 breach of privacy or confidentiality by the Indemnitor;
 - 14.1.1.4 negligent act or omission of the Indemnitor; or
 - 14.1.1.5 statutory offences committed by the Indemnitor.

14.2 Centre Indemnity

- 14.2.1 Each Participant shall indemnify, defend and hold harmless the Centre and its agents, officers, directors, successors and permitted assigns from and against all loss, cost and expense, including all legal expense on a full recovery basis, incurred by the Electronic Service Provider, Indemnitees or any of them as a result of or arising from of its obligations as a HINP and Agent as set out in this Agreement.

- 14.2.2 Each Participant releases the Centre from any liability in relation to the Electronic Service Provider's performance under the Agreement.
- 14.2.3 With the exception of its own Client Data, the Centre has no responsibility for the accuracy, completeness and currency of any Client Data provided to it by any of the other parties.

14.3 Limitation of Liability

- 14.3.1 Notwithstanding any other term of this Agreement, no party shall be liable for any indirect, special, or consequential damages, or for punitive or exemplary damages, even if that party has been advised of the possibility of such loss or damage in advance. The foregoing disclaimer of liability shall apply regardless of whether such liability is based on breach of contract, tort (including without limitation negligence), strict liability, breach of a fundamental term, fundamental breach, or otherwise.

Article 15 – Insurance

15.1 General Commercial Liability Insurance

- 15.1.1 Each Participant shall, so long as it is a Participant to this Agreement, obtain and maintain in full force and effect general liability insurance for a minimum of \$5,000,000 for any one occurrence. Such insurance shall include, without limitation, bodily injury and property damage including loss of use; personal injury including death; products and completed operations; contractual liability; premises; and cross liability. Coverage is to be written on a per occurrence basis. Upon request, a certificate of insurance issued by the issuer shall be acceptable to the Centre as proof of coverage. The foregoing insurance provisions shall not limit the amount or type of insurance otherwise required by law. It shall be the sole responsibility of the Participant to determine that nature and extent of additional insurance coverage, if any, is necessary and advisable for its own protection or to fulfill its obligations under this Agreement. Each Participant shall give the Centre at least thirty (30) days' prior written notice of material change to, cancellation, or non-renewal of the policy, and shall provide to the Centre evidence of insurance upon request.

Article 16 – Dispute Resolution

16.1 Dispute Resolution Process

If a dispute arises between any of the parties to this Agreement, reasonable commercial efforts will be made to resolve the dispute as effectively and quickly as possible. Disputes will be resolved as follows:

- 16.1.1 All disputes which may arise with respect to any matter governed by this Agreement shall first attempt to be mutually resolved by the individual representatives designated by the Participants.
- 16.1.2 Any party may send a notice (which shall detail the nature of the dispute and any section of this Agreement that is alleged to be in default) to the individual representatives involved requiring that such individuals meet within thirty (30) days to attempt to resolve the dispute.

- 16.1.3 If the primary contacts are unable to resolve any dispute referred to them within thirty (30) days of such referral, the matter shall be referred by a notice sent to the CEO of each party, requiring the CEOs to meet over the next thirty (30) days to attempt to resolve the dispute.
- 16.1.4 Where a resolution to the dispute cannot be resolved within thirty (30) days after the meeting between the CEO of each party, the parties may refer the matter to arbitration by an arbitrator selected by the parties.
- 16.1.5 Nothing in this Agreement shall interfere with a party's ability to avail themselves of injunctive or other relief.
- 16.1.6 Nothing in this Agreement shall be construed to interfere with a party's ability to consult with either its legal counsel or representatives of any professional organization that regulates or accredits health care organizations or health care practitioners.

Article 17 – Notice

17.1 Form of Notice & Contact

- 17.1.1 Any demand, notice, direction or other communication (“Communication”) required or permitted to be given for the purposes of this Agreement to a Participant shall be in writing and shall be sufficiently made or given if delivered personally or by courier, or if sent by first class prepaid registered mail or if transmitted by facsimile, be addressed to the primary contact of the respective parties for notice in the Participant Agreements or if the Centre, to the following contact:

Centre:

419 Phillip Street, Unit A,
Waterloo, ON. N2L 3X2

Attention: Privacy Analyst Practice Lead
Phone: 519-885-0606 x 1010
Facsimile No.: 519-885-4838

- 17.1.2 Any Communication, if delivered personally or by courier, shall be conclusively deemed to have been given and received on the date on which it was delivered at such address, provided that if such day is not a Business Day, or such delivery was not made within normal business hours, then the communication shall be conclusively deemed to have been given and received on the Business Day next following such day.
- 17.1.3 Any Communication mailed as aforesaid shall be conclusively deemed to have been given and received on the fourth Business Day following the date of its mailing in Canada, provided that if at the time of mailing or within four (4) Business Days thereafter, there occurs a labour dispute or other event that might reasonably be expected to disrupt delivery of documents by mail, any communication shall be delivered or transmitted by other means provided for in this section.

17.1.4 Any Communication given by facsimile shall be conclusively deemed to have been given and received on the date of its transmission, provided that if such day is not a Business Day or if it is not received within normal business hours on the date of its transmission, then it shall be conclusively deemed to have been given and received on the first Business Day next following transmission thereof. Any Participant hereto may change any particulars of its address at any time and from time to time by written notice given to the other parties in accordance with this section.

Article 18 – General

18.1 Severability

Should any provision of this Agreement be found to be invalid by a court of competent jurisdiction that provision shall be deemed severed and the remainder of this Agreement shall remain in full force and effect.

18.2 Further Assurances

Each of the parties hereto shall at its own expense and upon the request of another Participant hereto at any time and from time to time, promptly execute and deliver, or cause to be executed and delivered, all such further acknowledgements, consents, assurances and other documents, and promptly do, or cause to be done, all such further acts and things as that other Participant may reasonably request in order to fully effect the purposes of this Agreement.

18.3 Force Majeure

No Participant shall be liable for any delay or failure in the performance of this Agreement if caused by an act of God or any factor beyond the reasonable control and not reasonably foreseeable by such Participant, or as the result of the failure of a third party to comply with its obligations and responsibilities to provide materials or information as specified within this Agreement. In such event, the affected Participant shall notify each other Participant as soon as possible of such force majeure condition and the estimated duration of such condition.

18.4 Consent to Breach Not Waiver

No provision of this Agreement shall be deemed to be waived and no breach shall be deemed to be excused unless such waiver or consent is in writing and signed by the Participant said to have waived or consented. No consent by a Participant to, or waiver of, a breach of any provision by another Participant shall constitute consent to, or waiver of, any different or subsequent breach.

18.5 Changes that Affect the Agreement

The parties undertake to give one another written notice of any changes in legislation, regulations or policies respecting those parties and programs that are likely to affect this Agreement.

18.6 Survival

The provisions of this Agreement which by their own terms take effect on termination of this Agreement or by their nature survive termination, shall continue in full force and effect and survive termination, notwithstanding any termination hereof.

18.7 Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed to be original and such counterparts together shall constitute one and the same Agreement and notwithstanding their date of execution shall be deemed to be executed on the date first written above. The delivery of an executed counterpart copies of this Agreement by facsimile or by electronic transmission in portable document format (PDF) shall be deemed to be the equivalent of the delivery of an original executed copy thereof.

18.8 Assignment

This Agreement is binding upon the parties their successors and permitted assigns. Notwithstanding anything else in this agreement, the Centre shall have the right to assign this Agreement on written notice and upon such assignment the Centre shall be relieved of all obligations and responsibilities under this Agreement. The Participants shall not have the right to assign this Agreement without the written consent of the Centre.

IN WITNESS WHEREOF the Centre has executed and delivered this Agreement by its duly authorized representative who has authority to bind the parties to this Agreement.

CENTRE FOR FAMILY MEDICINE CARE INNOVATIONS



Name: Pat McLeod
Title: Acting Executive Director

Schedule A – Form of Participation Agreement – HIC

Participation Agreement - HIC dated _____ (the “**Adhesion Date**”) by _____ (the “**Participant**”) to the System Coordinated Access Information Sharing and Health Information Network Provider Agreement made as of the October 24, 2017 among the Centre for Family Medicine Care Innovations (the “**Centre**”) and other Participants that have entered into a Participation Agreement (the “**Agreement**”).

Now therefore in consideration of being accepted as a Participant to the Agreement to participate in the System Coordinated Access Program, the Participant agrees as follows:

1. The Participant represents and warrants that it is a health information custodian for purposes of the Personal Health Information Protection Act, 2004.
2. The Participant hereby agrees to comply with and be bound by all of the terms and conditions of the Agreement, as from the Adhesion Date, as if the Participant were an original Participant to the Agreement and will have all the rights and obligations of a Participant in the Agreement.
3. The Participant agrees to check the SCA Website for changes and updates to the SCA Network and other relevant information as it relates to the SCA Program.
4. All capitalized terms used but not defined herein have the meaning set out in the Agreement.
5. This Participation Agreement is effective on the date written above and continues in effect until the Agreement terminates or expires.
6. The Participant may not assign this Participation Agreement without the prior written consent of the Centre.
7. This Participant Agreement is governed by and interpreted in accordance with the laws of the Province of Ontario.
8. The Participant’s Privacy Officer contact information is:

Privacy Officer: _____

Phone: _____

Fax No.: _____

Email: _____

9. The primary contact person, address, email and fax number of the Participant is

Contact Person: _____

Title: _____

Address: _____

Fax No: _____

Email: _____

10. The Participant hereby executes this Participation Agreement:

Full Legal Name of the Participant: _____

Authorized signing authority Signature: _____

Print Name: _____

Title: _____

I have authority to bind the Participant. The foregoing instrument is hereby accepted by the current parties to the Agreement and the Participant has accordingly become a Participant to the Agreement, as of the Adhesion Date.

Schedule A(1) – Form of Participation Agreement – Non-HIC

Participant Agreement – Non-HIC dated _____ (the “Adhesion Date”) by _____ (the “Participant”) to the System Coordinated Access Information Sharing and Health Information Network Provider Agreement made as of October 24, 2017 among the Centre for Family Medicine Care Innovations (the “Centre”) and other Participants that have entered into a Participation Agreement (the “Agreement”).

Now therefore in consideration of signing this Participation Agreement, to participate in the System Coordinated Access Program the Participant is subject to the terms and conditions of the Agreement, and must further adhere to the following terms:

1. The Participant represents and warrants that it is not a health information custodian for the purposes of the Personal Health Information Protection Act, 2004 (“PHIPA”).
2. Despite the foregoing, the Participant must adhere to the privacy and security obligations of a HIC as set out in the Agreement and PHIPA in the use, collection, disclosure, retention and destruction of the Client Data for the SCA Program.
3. The Participant agrees to check the SCA Website for changes and updates to the SCA Network and other relevant information as it relates to the SCA Program.
4. The Participant agrees and acknowledges that it will not be subject to the rights or protections of PHIPA.
5. The Participant acknowledges and agrees that the Centre is not a HINP and Agent to the New Participant pursuant to PHIPA.
6. The Participant hereby agrees to comply with and be bound by all of the terms and conditions of the Agreement, as from the Adhesion Date, as if the Participant were as an original Participant to the Agreement and will have the rights and obligations of a Participant in the Agreement.
7. All capitalized terms used but not defined herein have the meaning set out in the Agreement.
8. This Participation Agreement is effective on the date written above and continues in effect until the Agreement terminates or expires.
9. The Participant may not assign this Participation Agreement without the prior written consent of the Centre.
10. This Participant Agreement is governed by and interpreted in accordance with the laws of the Province of Ontario.

11. The Participant's Privacy Officer contact information is:

Privacy Officer: _____

Phone: _____

Fax No.: _____

Email: _____

12. The primary contact person, address, email and fax number of the Participant, is

Contact Person: _____

Title: _____

Address: _____

Fax No.: _____

Email: _____

13. The Participant hereby executes this Participation Agreement:

Full Legal Name of the Participant: _____

Authorized signing authority Signature: _____

Print Name: _____

Title: _____

I have authority to bind the Participant. The foregoing Instrument is hereby accepted by the current parties to the Agreement and the Participant has accordingly become a Participant to the Agreement, as of the Adhesion Date.

Schedule A(2) – Form of Participation Agreement – HIC (LHIN)

Participation Agreement – HIC (LHIN) dated _____ (the “**Adhesion Date**”) by _____ (the “**Participant**”) to the System Coordinated Access Information Sharing and Health Information Network Provider Agreement made as of October 24, 2017 among the Centre for Family Medicine Care Innovations (the “**Centre**”) and other Participants that have entered into a Participation Agreement (the “**Agreement**”).

Pursuant to Article 13 of the Agreement, this Participation Agreement is deemed to be incorporated into the Agreement upon execution and shall be used only by Participants that are a local health integration network (“**LHIN**”) as defined in the Local Health System Integration Act, 2006 (“**LHSIA**”).

Now therefore in consideration of being accepted as a Participant to the Agreement to participate in the System Coordinated Access Program, the Participant agrees as follows:

1. The Participant represents and warrants that it is a LHIN under the LHSIA and is a health information custodian for purposes of the Personal Health Information Protection Act, 2004.
2. Subject to Section 4 of this Participation Agreement, the Participant hereby agrees to comply with and be bound by all of the terms and conditions of the Agreement, as from the Adhesion Date, as if the Participant were an original Participant to the Agreement and will have all the rights and obligations of a Participant in the Agreement.
3. The Participant agrees to check the SCA Website for changes and updates to the SCA Network and other relevant information as it relates to the SCA Program.
4. Pursuant to Section 28 of the Financial Administration Act (Ontario), the Participant as a LHIN cannot agree to provide an indemnity under Sections 14.1 and 14.2.1 of the Agreement. Notwithstanding the foregoing, the Participant shall be contractually liable in damages or otherwise to any other Participant and its agents, officers and directors, and the Centre and its agents, officers, directors, successors and permitted assigns as a result of or arising from any breach of the Participant’s obligations under the Agreement and Applicable Laws.
5. All capitalized terms used but not defined herein have the meaning set out in the Agreement.
6. This Participation Agreement is effective on the date written above and continues in effect until the Agreement terminates or expires.
7. The Participant may not assign this Participation Agreement without the prior written consent of the Centre.
8. This Participant Agreement is governed by and interpreted in accordance with the laws of the Province of Ontario.

9. The Participant's Privacy Officer contact information is:

Privacy Officer: _____

Phone: _____

Fax No.: _____

Email: _____

10. The primary contact person, address, email and fax number of the Participant is:

Contact Person: _____

Title: _____

Address: _____

Fax No: _____

Email: _____

11. The Participant hereby executes this Participation Agreement:

Full Legal Name of the Participant: _____

Authorized signing authority Signature: _____

Print Name: _____

Title: _____

I have authority to bind the Participant. The foregoing instrument is hereby accepted by the current parties to the Agreement and the Participant has accordingly become a Participant to the Agreement, as of the Adhesion Date.

Schedule B – SCA Website

1. The Centre will manage and oversee the SCA Website, which will be updated from time to time to reflect the evolving nature of the SCA Program and SCA Network.
2. The link to the SCA Website: <http://ehealthce.ca/SCA.htm>
3. The following is a non-exhaustive list of information that will be included on the SCA Website, and is subject to change:
 - A. List of Participants
 - B. List of programs
 - C. Vendors or other third parties that provide services on behalf of the Centre
 - D. Technical specifications for the SCA Network
 - E. Privacy impact assessment
 - F. Threat risk assessment
 - G. Security and privacy safeguards

Schedule C – Service to be Provided by the Centre as a HINP and Agent

1. HINP Services

- A. The Centre acting as a HINP directly, or through a contracted third party, shall provide the information management, information systems and information technology services for the SCA Network to the other parties.
- B. The Centre shall be a HINP and shall comply with all of the obligations of a HINP under PHIPA, subject to the exception that it may collect, use and disclose PHI in the course of providing the other Services contemplated in the Agreement.
- C. The Centre shall not use any Client Data to which it has access except as necessary to provide the Services described in this Agreement and shall not disclose any Client Data to which the Centre has access in the course of providing the Services except as required for the purpose of providing such Services.
- D. The Centre as HINP shall not collect, use or disclose any Client Data to which it has access in the course of providing Services for the parties except as necessary in the course of providing the Services.
- E. The Centre as HINP shall not permit its employees or any person acting on its behalf to have access to the SCA Network unless the employee or person acting on its behalf agrees to comply with the restrictions that apply to the Centre.
- F. The Centre as HINP shall notify affected Participant at the first reasonable opportunity if it has accessed, collected, used, disclosed or disposed of Client Data other than in accordance with this Agreement or Applicable Laws, or if an unauthorized person accessed the Client Data.
- G. The Centre as HINP shall provide to each Participant a plain language description of the Services that it provides to the parties, that is appropriate for sharing with the individuals to whom the Client Data relates, including a general description of the safeguards in place to protect against unauthorized use and disclosure, and to protect the integrity of the Client Data. The parties agree that this description may be provided to Clients of any of the parties.
- H. The Centre as HINP shall make available to the public:
 - I. the plain language description referred to above;
 - II. any of its directives, guidelines and policies that apply to the Services that it provides to the Participant to the extent that these do not reveal a trade secret or confidential scientific, technical, commercial or labour relations information; and
 - III. a general description of the safeguards it has implemented in relation to the security and confidentiality of the information.

- I. The Centre as HINP shall, to the extent reasonably practical, and in a manner that is reasonably practical, keep and make available to each Participant, on the request of such Participant, an electronic record of:
 - I. all accesses to all or part of the Client Data associated with the Participant being held in the SCA Network, which record shall identify the person who accessed the information and the date and time of the access; and
 - II. all transfers of all or part of the information associated with the Participant in the SCA Network by the Centre (whether to third party service providers, or otherwise), which record shall identify the person who transferred the information and the person or address to whom it was sent, and the date and time it was sent.

- J. Prior to the Effective Date, the Centre, as HINP shall perform, and shall provide to each Participant a written copy of the results of:
 - I. a threat risk assessment of the threats, vulnerabilities and risks to the security and integrity of the Client Data that it manages in the course of the provision of the Services, and
 - II. a privacy impact assessment related to how the provision of Services may affect the privacy of the individuals who are the subject of the information.

- K. The Centre as HINP shall update the privacy impact assessments and threat risk assessments, as it deems appropriate to identify continuing or new risks to privacy resulting from the provision of Services and to review the steps taken to address risks to privacy and security identified in the initial assessments and to assess the effectiveness of such steps. The Centre shall provide the results of any updated threat risk or privacy impact assessments to the Participants.

- L. The Centre will hold the Participant's Confidential Information in strictest confidence, and in any case with no less protection and security than the Centre protects its own Confidential Information.

- M. In the event that the Centre receives a court order or other lawful requirement of a court or government agency of competent jurisdiction requiring the disclosure of some or all of a Participant's Confidential Information, the Centre shall (if reasonably practicable) first advise the impacted Participant about the receipt of such court order so that the Participant may be given an opportunity to intervene, e.g., to seek a protective order against such disclosure. This obligation survives the termination or expiration of this Agreement.

2. **Agent**

Subject to Section 8.6 of the Agreement, the Centre will provide the following Services as an Agent on behalf of the Participants:

A. Reports

- I. The Centre may collect, use, and disclose referral data (which is a subset of Client Data) to generate reports on behalf of the Participants.
- II. The Centre may de-identify a Participant's Referral Data and use such de-identified Client Data for the purposes of generating reports and analysis on behalf of the Centre, in its capacity as an Agent for the Participants, in accordance with PHIPA.