

ACCOUNTABILITY AGREEMENT

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, as represented by
THE MINISTER OF HEALTH

(the “Ministry”)

- and -

eHEALTH ONTARIO

(the “Agency”)

Introduction

The Agency’s role is a focused technology service provider. The Agency is mandated under Ontario Regulation 43/02, made under the *Development Corporations Act* (Regulation”) to: (i) provide Digital Health Technology Services and related support for the effective and efficient planning, management and delivery of health care in Ontario; (ii) develop operational policy for the provision of Digital Health Technology Services; (iii) protect the privacy of individuals whose personal information or personal health information is collected, transmitted, stored or exchanged by and through the Agency.

The Ministry and the Agency acknowledge that this Agreement is temporary and is only intended to be in effect until such time that the Agency is transferred to the Ontario Health Agency. This Agreement is one element of a larger accountability framework that defines the roles, responsibilities, and accountabilities between the Ministry and the Agency. Other elements of this framework include Regulation 43/02 under the *Development Corporations Act*, which formally establishes the Agency, the current Memorandum of Understanding (MOU) between the Parties and the Minister’s Mandate Letter.

Section 1 – Purpose and Term of the Agreement

- 1.1 This Agreement supports the Agency’s relationship with the Ministry in its endeavour to fulfill its mandate and carry out the strategic policy directions of the Government, all in accordance with the Regulation and the MOU.
- 1.2 This Agreement confirms the mutual understandings between the Ministry and the Agency in respect of the Deliverables to be provided by the Agency using the funding provided by the Ministry. This Agreement shall be in effect until terminated by the Ministry or the Agency. Such termination shall be on 30 Days written notice, delivered in accordance with the provisions of this Agreement.

Section 2 – Definitions

In this Agreement, unless otherwise defined herein, capitalized words have the meaning set out in the MOU. The following terms have the following meanings:

- (a) **“Agreement”** means this accountability agreement, including any schedules, and any instruments which amend this agreement;
- (b) **“Annual Budget”** means Agency’s multi-year expenditure plan of the approved allocation by the Ministry to the Agency for operations, including both capital and operating expenses;
- (c) **“Annual Business Plan”** means the annual business plan submitted to the Minister in accordance with section 10.1 of the Regulation;
- (d) **“Annual Report”** means the Agency’s annual report submitted to the Minister in accordance with section 10 of the Regulation;
- (e) **“Balanced Annual Budget”** means the total of operating and capital expenses of the Agency for the Fiscal Year that is equal to or less than the approved allocation to the Agency by TB/MBC, with capital expenses not exceeding the capital allocation and operating expenses not exceeding the operating expenses allocation;
- (f) **“Capital Budget”** means the portion of the Annual Budget the Agency has allocated to capital expenditures;
- (g) **“Cash Status Report”** means a financial report issued to the Ministry to indicate the Agency’s cash position and needs on a monthly basis;
- (h) **“Day”** means calendar day unless otherwise noted;
- (i) **“Deliverables”** means the performance deliverables (including any projects, products or services) to be delivered by the Agency with the funding provided to it by the Ministry as committed to in the Annual Business Plan, requested in the Minister’s Mandate Letter or as agreed in-year between both Parties;
- (j) **“Digital Health Report”** means the report attached as Schedule 4 to the Agreement, as may be amended from time to time.
- (k) **“Fiscal Year”** means April 1 to March 31 of each calendar year;
- (l) **“Monthly Financial Report”** means a report that includes a statement of the Agency’s budget allocations, actual expenditures, and explanation of variances, a calendarized forecast of its overall operating and capital expenditures, budget, year-to-date actuals, and Transfer Payment agreements in a format agreed to between the Parties;
- (m) **“Operating Budget”** means the portion of the Annual Budget the Agency has allocated to operations, excluding capital expenditures;
- (n) **“Parties”** means both the Ministry and the Agency and **“Party”** means only one of the Ministry or the Agency;
- (o) **“Schedule”** means any one of, and **“Schedules”** means any two or more of the schedules appended to this Agreement, including the following:

Schedule 1 – General

Schedule 2 – Financial Management

Schedule 3 – Planning and Allocations

Schedule 4 – Digital Health Report

- (p) **“Transfer Payment(s)”** has the meaning ascribed to it in TB/MBC’s Transfer Payment Accountability Directive and related policies and guidelines, as may be amended from time to time;
- (q) **“Transfer Payment Recipient”** means any person or entity who receives Transfer Payments from the Agency.

Section 3 – Accountability of Each Party

3.1 The Ministry

- 3.1.1 The Ministry will fulfill its obligations set out in the Schedules in accordance with the terms of this Agreement, and consistent with the MOU.

3.2 The Agency

- 3.2.1 The Agency will fulfill its obligations, including provision of the Deliverables, in accordance with the terms of this Agreement, the Regulation, and the MOU. Deliverables will be incorporated into the Agency’s reports to the Ministry as set out in the Schedules to this Agreement.
- 3.2.2 Where the Agency funds projects and/or initiatives directly through Transfer Payments, the Agency will ensure that it is providing funding in compliance with the Transfer Payment Accountability Directive.

3.3 The Ministry and The Agency

- 3.3.1 Both Parties will collaborate and cooperate to:
 - a) facilitate the achievement of the requirements of this Agreement;
 - b) develop clear and achievable performance obligations, and identify risks to performance;
 - c) maintain clear lines of communication so that both Parties can meet their obligations in the Agreement and MOU;
 - d) establish clear lines of accountability in a manner that promotes the advancement of the Government’s digital health agenda; and
 - e) work diligently to resolve issues in a proactive and timely manner.
- 3.3.2 Notwithstanding any other provision in this Agreement, all dealings between the Agency and the Ministry shall be as between the Agency and, as a point of first contact, the Ministry’s Digital Health Program Branch and the Agency’s Enterprise Planning and Reporting Branch.
- 3.3.3 The Parties agree that where any reports made under the MOU or this Agreement are to be publicly released by the Agency, the Ministry shall be given advance copies of the material to be released no fewer than 30 days prior to the release.

Section 4 – Performance Improvement

- 4.1 Where issues arise that could significantly affect either the Agency or Ministry’s ability to perform its obligations under this Agreement (the “Performance Factor”), the affected Party shall provide written notice to the other Party. The affected

Party agrees to deliver such notice as soon as the affected Party becomes aware of the Performance Factor. Notice shall include a description of the Performance Factor, any remedial action the affected Party has taken or plans to take to remedy the Performance Factor, and whether the affected Party is requesting a meeting with the other Party to discuss the Performance Factor. The other Party shall provide the affected Party with receipt of notice within three business days from the date the notice is received. Where the affected Party has requested a meeting, the Parties agree to meet and to discuss the Performance Factor within two weeks of the date the notice is received.

- 4.2 The Parties agree to adopt and follow a proactive, responsive approach to performance improvement based on the following principles:
- a) a commitment to ongoing performance improvement;
 - b) an orientation to problem solving;
 - c) a focus on relative risk of non-performance;
 - d) maximizing the efficient and effective use of public funds;
 - e) increasing value added to the health care sector; and
 - f) incorporating innovation and continuous quality improvement practices as part of the Agency's policies and operations.
- 4.3 During any meeting referred to in section 4.1, using the principles set out in section 4.2, the Parties will:
- a) discuss the cause(s) of the Performance Factor;
 - b) review plans for remediation;
 - c) agree on other actions that may be appropriate;
 - d) agree on the timing for the remediation; and
 - e) revise performance obligations, if necessary.
- 4.4 The performance improvement process may include, in addition to any other remedies:
- a) where the Performance Factor affects the obligations of the Agency, other appropriate actions to be led by the Agency, may include:
 - regular performance reports to the Ministry;
 - Agency-Ministry monthly performance improvement meetings;
 - external / expert reviews directed by the Agency; and
 - Agency-developed performance improvement plans for the Agency as discussed with the Ministry.
 - b) where the Performance Factor affects the obligations of the Ministry, other appropriate actions to be led by Ministry, may include:
 - interventions between the Ministry and other areas of Government;
 - clarification and resolution of differences between different organizations in or funded by the Ministry;

- addressing policy issues that impact on the Agency mandate to implement the Government's digital health priorities; and
 - a performance improvement plan.
- c) where the Performance Factor affects the obligations of both Parties, other actions to be jointly led by the Parties, may include:
- Ministry assistance to build the Agency's capacity; and
 - development of a performance improvement plan.

Section 5 – Annual Joint Planning and Annual Business Plan

- 5.1 The Ministry and the Agency will meet in June of each year to discuss key priorities for the Agency's Annual Business Plan for the following Fiscal Year. The Parties will discuss how they will work together to ensure alignment and how they will support the achievement of the goals and objectives of each Party.

Section 6 – Ministry Agreements with Canada Health Infoway

- 6.1 The Ministry and Agency will work together collaboratively to maximize federal funding for future digital health projects as funding arises through Canada Health Infoway (CHI). The Ministry enters into agreements with CHI to secure funding for projects being implemented by the Agency. These agreements have formal requirements, including timelines and deliverables that will be reflected in the Agency's project plans in a manner that maximizes CHI funding. Should material changes occur to the timelines and deliverables, the Agency will work with CHI and the Ministry to adjust the existing Statements of Work, if necessary, to ensure alignment with the Agency's project plans.
- 6.2 Following the development of the agreements referred to in 6.1, the Agency will manage its agreements with Transfer Payment Recipients, vendors and other delivery partners as appropriate to ensure that projects are delivered in accordance with CHI project agreements.
- 6.3 The Agency will provide project status update information required by CHI and the Ministry, according to mutually agreed upon reporting cycles, to assess risk and completion of tasks in relation to CHI funding and will maintain adequate records to support CHI funding claims in the event of an audit by CHI or CHI's auditors.
- 6.4 When the Agency generates an invoice for CHI in relation to a funding claim, the Agency will provide the Ministry with an attestation that it has adequate records to support the CHI funding claim.

Section 7 – General

- 7.1 In the event of a conflict or inconsistency between the terms and conditions of this Agreement and those contained in the MOU, the terms and conditions of the MOU shall prevail to the extent of the conflict or inconsistency. In the event of a conflict or inconsistency between the terms and conditions of this Agreement and those contained in the Regulation, the terms and conditions of the Regulations shall prevail to the extent of the conflict or inconsistency.

- 7.2 All Schedules shall be governed by the terms hereof and the terms in Schedule 1.
- 7.3 Any amendment to this Agreement, including any Schedule, will only be effective if it is in writing and executed by the authorized representative of each Party.
- 7.4 The Agency will not assign any duty, right or interest under this Agreement without the prior written consent of the Ministry.
- 7.5 Each Party will communicate with each other about matters pertaining to this Agreement, including the delivery of notices, through the following persons or such other person as either Party may later designate to the other by notice:

To the Ministry:

Ministry of Health,
Digital Health Secretariat
1075 Bay Street, 12th floor, Suite 1200
Toronto ON M5S 2B1

Attention:

Assistant Deputy Minister,
Digital Health Secretariat
Telephone: (416) 325-9075
Fax: (416) 326-9967

With a copy to:

Director, Digital Health Program Branch
1075 Bay Street
12th Floor, Suite 1200
Toronto ON M5S 2B1

Telephone: (416) 325-9075
Fax: (416) 326-9967

To eHealth Ontario:

eHealth Ontario
P.O. Box 148
777 Bay Street, Suite 701
Toronto ON M5G 2C8

Attention:

Chief Financial Officer / Chief
Administrative Officer
eHealth Ontario

Telephone: 416-586-6500

Fax: 416-586-4363

Email: info@ehealthontario.on.ca

With a copy to:

Director, Enterprise Planning and Reporting
Branch
eHealth Ontario
655 Bay Street, 2nd Floor
Toronto ON M5G 2K4

Telephone : (416) 586-6500

Any notice or document provided pursuant to the Agreement shall be in writing and shall be effective when delivered personally to the other Party, or 5 business days following the date of mailing (registered mail, return receipt requested, or first class postage prepaid) provided there is no postal strike during the period, or the business day following the date it was forwarded by facsimile transmission. In the event of a postal disruption, notices must be given by personal delivery or by facsimile.

Any notice or document delivered by Electronic Transmission will be deemed to have been given or made and to have been received on the day of sending if sent during Business Hours and, if not, then on the first Business Day after the sending thereof.

This Agreement is being re-executed by the Parties effective as of 1st day of April, 2019.

Her Majesty the Queen in right of Ontario,

as represented by the Minister of Health:

Christine Elliott
Deputy Premier and Minister of Health

Date: _____

eHealth Ontario:

William Hatanaka
Chair, Board of Directors

Date: _____

SCHEDULE 1: GENERAL

Part A: Purpose of Schedule

- To set out matters of general application to all Schedules.

Part B: Interpretation and Application

1. The primary purposes of all the Schedules under the Agreement are to:
 - a) support the Agency in achieving the Deliverables;
 - b) describe the Ministry's responsibility for the strategic direction and planning for digital health across the Province's health care system;
 - c) confirm the Agency's responsibility to support the Government's digital health strategic directions and strategies to support the Government's health system goals and priorities;
 - d) enable the Agency to be accountable for Transfer Payments, planning and integrating the common technology infrastructure services it is providing for the health care sector; and
 - e) support the Agency and the Ministry's performance obligations.

All the Schedules shall be interpreted in accordance with these primary purposes.

2. If the delivery of any budget or report required under this Agreement is scheduled to fall on a date that is a weekend or a holiday recognized by the Ministry, the budget or report shall be due on the previous business day.

Part C: Review and Evaluating the Agreement

3. The Parties will conduct the reviews, negotiations, and updates contemplated by this Agreement based on principles that reflect:
 - a) strategic alignment with Government priorities;
 - b) mutual interest in advancing the digital health agenda;
 - c) flexibility;
 - d) openness and transparency;
 - e) performance improvement;
 - f) health system sustainability through sound financial management; and
 - g) achievability.

SCHEDULE 2: FINANCIAL MANAGEMENT

Part A: Purposes of Schedule

- To promote financial accountability in respect of the Agency's mandate and role as set out in the Regulation, the MOU and the Annual Business Plan; and
- To set out the following elements for effective financial management:
 - a) annual allocation;
 - b) annual balanced budget requirements;
 - c) parameters for in-year and year-end reallocation;
 - d) Program Review Renewal and Transformation (PRRT); and
 - e) fiscal prudence.

Part B: Performance Obligations

Balanced Annual Budget Requirements

1. The Agency will:
 - a) Plan for a Balanced Annual Budget for each Fiscal Year;
 - b) Submit Annual Budget forecasting (with both operating and capital forecasts) to the Ministry in accordance with Section 6 of this Schedule 2 unless otherwise agreed to with Ministry;
 - c) Achieve a Balanced Annual Budget; and
 - d) Upon completion of all financial transactions for the Fiscal Year, shall return any cash surpluses to the Ministry consistent with the required treatment of surpluses in the MOU.
2. The Parties will work jointly to identify budgetary flexibility and manage in-year risks and pressures to ensure that an Annual Balanced Budget is achieved.

In-year and Year-end Reallocations

3. The Ministry will:
 - Collaboratively monitor the Agency's reallocation requests and management of expenditures, and develop any additional guidelines and parameters, as required, to ensure effective financial management.
4. The Agency will:

- Fund Local Health Integration Networks (LHINs) and Health Service Providers (HSP) directly from approved operating and capital funds for all digital health-related projects and/or initiatives as appropriate;
- Undertake only those reallocations that have been approved by the Ministry.

Ongoing Reporting

5. The Ministry will work with the Agency to identify opportunities to streamline reporting requirements, consistent with the MOU and all applicable Directives.
6. The Agency shall ensure that:
 - Monthly Financial Reports provide details of both operating and capital expenditures, spending on base operations and initiatives, calendarized forecast of overall capital and operating expenditures, the budget, year-to-date actuals and Transfer Payments by the Agency.
 - In respect of Transfer Payments paid to Transfer Payment Recipients
 - The Agency shall provide details on any Transfer Payment made by the Agency to Transfer Payment Recipients;
 - These details shall include at a minimum the name of project / program, phases or cost categories, legal name of Transfer Payment Recipient (separate LHIN and Health Service Providers), Transfer Payment Recipient site, timelines (e.g. when does the Agency plan to flow Transfer Payments to the Transfer Payment Recipients) and amount; and
 - Where the Transfer Payment Recipient is a Government Reporting Entity (“GRE”), additional information providing the break-down between capital and operating budget for reporting purposes based on Transfer Payment Recipient’s best estimate, as well as by project or program in a format provided by the Ministry.

The Agency will submit the following:

- Digital Health Report is due 15 Days after the end of each month.
- Cash Status Report is due 11 Days after the end of the month, which serves to identify the cash position and needs for the current and subsequent months.
- Monthly Financial Report is due 25 Days after the end of each month for which the report is due.
- Annual Attestations of compliance with Directives by the Agency’s Senior Management to the Board 30 Days after tabling with the Board.
- The draft Annual Financial Report, for Public Accounts purposes, shall be prepared in accordance with the stated basis of accounting as set out for the Audited Financial Report and as confirmed by the Ministry in conjunction with the Ministry of Finance with the format as prescribed by the Agency’s auditors for the Annual Audited Financial Report.

- The Audited Financial Report shall clearly set out of the Agency's expenditures, revenues, assets and liabilities in accordance with the accounting principles as recommended by the Public Sector Accounting Board and, where applicable, the Canadian Institute of Chartered Accountants, subject to modifications and interpretations issued from time to time by the Office of the Provincial Controller. This report shall include information on amounts and sources of external funding, including any interest earned on such funding, during the Fiscal Year in which any such funding is obtained. This report shall be in the format as prescribed by the Agency's auditors, and including at least the information contained in the Draft Audited Financial Report. In addition, the report will be accompanied by the completed consolidation report requirements of the Province.
- Reports required by TB/MBC as provided in correspondence from the Assistant Deputy Minister, Digital Health Secretariat (ADM) to the Chief Executive Officer of the Agency (CEO).
- Public Accounts of Ontario schedules to consolidated health sector entities and other Public Accounts consolidation information requirements.
- When the Ministry receives an ad-hoc request that requires information from the Agency, the Ministry through the Digital Health Program Branch will notify the Agency within a reasonable time of receiving the request. The Parties will meet as soon as reasonable to clarify and discuss the request, and agree on a timeline for the Agency to submit the information. The Agency agrees to use its best efforts to respond to the request and to submit the information in a timely manner.

The following reports shall be submitted to the Ministry through the Director, Digital Health Program Branch on the dates specified below:

Key Report Dates:

Report	Due Date
1. Digital Health Report	30 Days after the end of each month
2. Cash Status Report	11 Days after the end of each month
3. Monthly Financial Report	25 Days after the end of the month for which the report is due
4. Compliance Attestations	30 Days after being tabled with the Board

Report	Due Date
5. Draft Annual Financial Report	Within 60 Days after the Fiscal Year end
6. Audited Financial Report	Within 90 Days after the Fiscal Year end
7. Draft Annual Report	Within 90 Days after the Fiscal Year end
8. Annual Report	Within 120 Days after the Fiscal Year end
9. Reports required by TB/MBC	As provided in correspondence from the ADM to the CEO
10. Reports specified from time to time	On a date or dates specified by the Ministry
11. Quarterly GRE Plan	25 Days after quarter end
12. Quarterly Roadmap submission	Tabled for discussion at regular Ministry Agency planning meeting currently designated as Planning and Priorities Committee

Accounting Standards

7. The Ministry will provide the Agency with interpretations and modifications relating to Government accounting standards as they may impact on the Agency based on advice from the Office of the Provincial Controller.
8. The Agency will prepare its financial reports and statements on its annual operations in accordance with the Public Sector Accounting Board (PSAB), unless the Agency has been advised in writing by the Ministry (Accounting Policy and Financial Reporting Branch in consultation with the Ministry of Finance) that another basis of generally accepted accounting principles can continue to be used. All financial reporting to the Ministry (for reporting of actual, forecast or plan numbers) must be prepared consistent with the Agency's stated basis of accounting principles. If PSAB or Generally Accepted Accounting Practices (GAAP) standards are not used, the report shall clearly note this and shall state the reason for the difference. Where necessary, the Agency will restate information to address specific requirements from the Ministry.

SCHEDULE 3: PLANNING AND ALLOCATIONS

Part A: Purposes of Schedule

- To identify key decision points, responsibilities, timelines and requirements related to Ministry/Agency planning and allocations to the Agency; and
- To set out a plan for the flow of funds to the Agency for each Fiscal Year.

Part B: Performance Obligations

1. The Ministry will:
 - a) Consult with the Agency on requirements related to the finalization of the funding allocation for each Fiscal Year;
 - b) Discuss and revise the expenditure forecast for each Fiscal Year with the Agency as part of the Annual Business Plan submission process;
 - c) Review and discuss with the Agency by June of each year (see Schedule 2 for “Key Report Dates”), Ministry and Government digital health priorities to guide the development of the updated eHealth Ontario Annual Business Plan;
 - d) Provide feedback within 15 business days on the Agency’s draft Annual Business Plan submitted to the Ministry for review;
 - e) Provide the Agency with formal notification of approval of the Annual Business Plan;
 - f) Work with the Agency to identify requirements and timelines of the Government’s annual Program Review Renewal and Transformation (PRRT) process, and confirm the Agency’s required involvement in the fall of each year, or as identified in the annual PRRT process; and
 - g) Provide ongoing feedback to the Agency wherever possible on the allocation and budget process status, where this may impact the Agency operating plans.
2. The Agency will:
 - a) Provide all necessary materials in support of the Ministry’s annual PRRT and infrastructure planning processes as agreed to each year based on the requirements and timelines of that year’s process;
 - b) For each Fiscal Year, in accordance with the AAD, provide draft Annual Business Plans for the following Fiscal Year, containing components for review and discussion with Ministry prior to finalizing the draft Annual Business Plan;
 - c) For each Fiscal Year, provide a consolidated, Board-approved Annual Business Plan for the following Fiscal Year, meeting the requirements of the AAD, and any

- others identified by Ministry as part of the annual priority-setting exercise as supported by the Agency's approved allocation;
- d) If the Ministry's final approved allocation to the Agency varies significantly (+/- 5 percent) from the expenditure forecast reflected in the Agency's Annual Business Plan, the Agency will provide either an addendum to the Annual Business Plan no later than 60 Days after receiving notification of the final allocation or an operating plan with the Agency's plan to manage to the reduced approved allocation. Any addendum or operating plan created by the Agency, will include information on the assignment of the final approved allocation by project and program, and include a description of any change in Deliverables or associated timelines.
 - e) Provide to the Ministry any information to help demonstrate the achievement of appropriate milestones to have funding released from Canada Health Infoway for payment into the Consolidated Revenue Fund; and
 - f) If necessary, assist in the development of an agreement between the Province, the Agency and Canada Health Infoway prescribing future funding payable to the Province in respect of components of the agreed upon digital health initiatives.

**SCHEDULE 4:
DIGITAL HEALTH REPORT**

The Digital Health Report represents the principal reporting mechanism on the Agency's progress and alignment with the Digital Health Action Plan. Updates to the format of the Digital Health Report will be made from time to time as both Parties work towards streamlining and improvement.



Digital Health
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