

Purchase Order Terms and Conditions

In the absence of a separate written agreement executed by authorized representatives of both Children's Hospital of Eastern Ontario-Ottawa Children's Treatment Centre ("CHEO") and the Supplier, these Purchase Order Terms and Conditions, together with any applicable supplementary Purchase Order Terms and Conditions attached to or referenced in the Purchase Order, constitute the entire agreement between CHEO and the Supplier identified in the Purchase Order. Where such an executed agreement exists, the terms of that agreement shall prevail over these Purchase Order Terms and Conditions and any supplementary Purchase Order Terms and Conditions to the extent of any conflict or inconsistency.

1. Goods and/or Services

CHEO agrees to engage Supplier to provide the goods and/or services described in this Purchase Order and the Supplier has agreed to perform and provide such services (collectively the "Services").

2. Term

Except as otherwise provided on the Purchase Order, CHEO agrees to engage Supplier to provide the goods and/or services for a Term commencing on issue date of the Purchase Order and ending upon delivery and acceptance of goods and/or completion of the services.

3. Fee

The total amount of this Purchase Order, including the initial Term and any subsequent optional terms will not exceed the value of this Purchase Order.

Unless otherwise expressly stated in the Purchase Order, all prices specified herein shall be fixed and in Canadian dollars and shall include all charges and expenses of the Supplier, as well as freight and insurance to destination including packing, boxing, cartage and any and all applicable taxes, fees and duties of federal, provincial and local government except any applicable harmonized sales tax which may be shown as extra. Undisputed invoices are payable by CHEO within 30 days of receipt subject to satisfactory completion of performance by Supplier of its obligations. The time specified for payment of invoices, or for accepting any payment of discounts offered, shall run only from the date that undisputed invoices are furnished to CHEO, or satisfactory receipt of the goods / work by CHEO, whichever shall be the latter. CHEO may withhold payment subject to a reasonable period to conduct inspection (with respect to goods); and, with respect to equipment, software, deliverables and work, successful testing, in accordance with Section 16 (Acceptance Testing). CHEO shall be entitled to obtain copies of, or to audit, any supporting documentation with respect to invoiced charges. Where a Purchase Order indicates that CHEO shall also be responsible for expenses, then CHEO shall reimburse Supplier for reasonable expenses as actually incurred, provided: (a) such expenses must be pre-approved by CHEO; (b) Supplier shall not include in such expenses any administrative markup; (c) Supplier shall provide copies of receipts; and (d) such expenses must comply with CHEO's Travel/Expense Policy (request copy from CHEO if required) as of the date of issuance of the Purchase Order); for greater clarity, in accordance with such policy, and in conformance with the Ontario Government's Broader Public Sector Expenses Directive, meals, hospitality and incidentals are prohibited from being reimbursable expenses, and shall accordingly not be subject to reimbursement under this CHEO Order.

4. Invoices

Invoices must be submitted to CHEO's Accounts Payable department via email to payables@cheo.on.ca. The Purchase Order number must appear in all correspondence, invoices, shipping papers and packages.

5. Independent Contractor

Supplier's relationship with CHEO as created by this Purchase Order is that of an independent contractor for the purposes of the Income Tax Act (Canada) and any similar provincial taxing legislation. It is intended that Supplier shall have general control and direction over the way its services are to be provided to CHEO under this Purchase Order.

Nothing contained in Terms and Conditions shall be regarded or construed as creating any relationship (whether by way of employer/employee, agency, joint venture, association, or partnership) between the parties other than as an independent contractor as set forth herein.

Supplier may not assign the work procured under this Purchase Order, in whole or in part, or use others for the provision of any goods or services without the prior written consent of CHEO.

6. Supplier's Power to Contract

The Supplier represents and warrants that it has the full right and power and all necessary licenses, authorizations, and qualifications to enter into and perform its obligations under this Purchase Order and that it is not a party to any agreement with another person which would in any way interfere with the rights of CHEO under this Purchase Order.

7. Conflict of Interest

Supplier, including its employees, agents and subcontractors, shall not engage in any activity which creates a Conflict of Interest in respect of the procurement hereunder, and shall promptly notify CHEO of any actual, potential or apparent conflict of interest that arises during performance. A "Conflict of Interest" means a situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity. An apparent Conflict of Interest is one in which a reasonable person would think that the professional's judgment is likely to be compromised. A Conflict of Interest also includes any unlawful, unethical or fraudulent activity, or any violation by Supplier or its personnel of Supplier's code of business/ethical conduct. Supplier shall adhere to commonly accepted norms of ethical business practices, including establishing and ensuring adherence to, precautions to prevent its employees, agents and subcontractors from providing or offering gifts or hospitality of greater than nominal value to any person acting on behalf of or employed by CHEO.

8. Compliance

Supplier represents that it is not a 'U.S. business' as that term is defined by the Ontario Government Procurement Restriction Policy, as issued under the authority of the Management Board of Cabinet Act, 1990, and the Broader Public Sector Accountability Act, 2010.

This Purchase Order shall be governed by and construed in accordance with the Laws of the Province of Ontario and the applicable Laws of Canada.

Supplier shall comply with all applicable federal, provincial, and municipal laws, rules and regulations arising out of or connected with the performance of the Services under this Purchase Order by Supplier or its employees.

Any legal action or proceeding commenced by either party arising out of this Purchase Order shall be brought in a court of competent jurisdiction in the Province of Ontario and each party shall submit to and accept the exclusive jurisdiction of such court for the purpose of such suit, legal action or proceeding.

Supplier shall be responsible for all Unemployment Insurance Contributions, Canada Pension Plan contributions, Income Tax and Workers' Compensation payments relating to or arising out of the fees paid to Supplier under this Purchase Order for the goods provided and/or the services performed by Supplier or its employees. Payments relating to any of the above shall be the responsibility of Supplier and shall be forwarded by Supplier as appropriate, directly to the government agencies involved. Proof of compliance with this requirement shall be available to CHEO upon request.

If any taxing authority, for whatever reason, seeks from CHEO any Unemployment Insurance Contributions, Canada Pension Plan contributions, Income Taxes or Workers' Compensation payments, Supplier agrees to indemnify CHEO and any of its directors, officers, and employees, for the full amount of any such contributions or payments (including any applicable interest and penalties thereon).

By accepting this Purchase Order, the Supplier attests that the goods and/or services provided by the Supplier under this Purchase Order are not the result of, and in no way involve, forced labour or child labour (as such terms are defined in *Canada's Fighting against Forced Labour and Child Labour in Supply Chains Act*).

9. Accessibility for Ontarians with Disabilities Act (AODA)

In the provision of goods and/or services procured under this Purchase Order, the Supplier shall comply with all applicable accessibility requirements under the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11 (the "AODA"), and all regulations made under the AODA, including the Integrated Accessibility Standards Regulation, O. Reg. 191/11 (the "IASR"), as amended from time to time.

Without limiting the generality of the foregoing, the Supplier agrees that:

- (a) All goods and/or services provided under this Purchase Order shall be provided in a manner that complies with AODA and IASR and that respects the dignity and independence of persons with disabilities.
- (b) Where information or communication materials are required to be provided to the public or to CHEO, such materials shall be provided in accessible formats and with communication supports upon request, in accordance with the AODA and IASR.
- (c) The Supplier shall ensure that its employees, agents, subcontractors, and any other persons involved in delivering the goods and/or services under this Purchase Order receive appropriate accessibility training as required under the AODA and IASR.
- (d) The Supplier shall notify CHEO promptly of any accessibility barriers identified in connection with the provision of the procured goods and/or services and shall cooperate with CHEO to remedy such barriers in a timely manner.
- (e) Failure to comply with this section shall constitute a material breach of this Purchase Order.

10. Key Personnel

Supplier is required to supply an adequate number of properly trained personnel, to fulfill all Supplier obligations under this Purchase Order.

If the Supplier's proposal identified any key personnel that CHEO relied upon in the evaluation of the proposal and the subsequent issuance of this Purchase Order, Supplier will not remove any key personnel from the provision of the Services, or materially reduce the responsibilities of any personnel in relation to the provision of the Services except with the prior written consent of CHEO (which consent shall not be unreasonably withheld).

11. Confidential Information

Supplier acknowledges that certain of the material and information made available to Supplier by CHEO in the provision of the goods and/or the performance of the Services (the "Confidential Information") will be of a confidential nature. Supplier recognizes that the Confidential Information is the sole and exclusive property of CHEO, and Supplier shall use its best efforts and exercise diligence to protect and maintain confidentiality of the Confidential Information. Supplier shall not, directly, or indirectly, use the Confidential Information for its own benefit, or disclose to another any Confidential Information, whether acquired, learned, obtained, or developed by Supplier alone or in conjunction with others, except as such disclosure or use may be required in connection with the performance of the Services or as may be consented to in writing by CHEO.

The Confidential Information is and shall remain the sole and exclusive property of CHEO regardless of whether such information was generated by Supplier or by others, and Supplier agrees that upon termination of this Purchase Order it shall deliver promptly to CHEO all such tangible parts of the Confidential Information including records, data, notes, reports, proposals, CHEO lists, correspondence, materials, marketing or sales information, computer programs, equipment, or other documents or property which are in the possession or under the control of the Supplier.

Supplier must ensure the return or, at CHEO's direction, destruction of all CHEO's Confidential Information in its or its Personnel's possession upon expiration of this Purchase Order or otherwise upon CHEO's request. No Confidential Information may be kept by Supplier or any Supplier Personnel except as is necessary to enable them to comply with their reasonable document retention policies and provided such Confidential Information is not normally accessible to any individuals in the normal course of business and is destroyed in the normal course of business in accordance with such retention policies.

To the extent Supplier may disclose any of its confidential information to CHEO, CHEO shall treat the Supplier's confidential information as proprietary and confidential using no less than a reasonable degree of care.

Each of the foregoing obligations of Supplier in this clause shall also apply to any confidential information of customers, joint venture parties, Consultants, and other entities, of any nature whatsoever, with which CHEO or any associate or affiliate of CHEO has business relations.

Notwithstanding the foregoing provisions of this clause, Supplier shall not be liable for the disclosure or use of any of the Confidential Information to the extent that:

- (a) the Confidential Information is or becomes available to the public from a source other than Supplier and through no fault of the Supplier; or
- (b) the Confidential Information is lawfully obtained by Supplier from a third party or a source outside of this Purchase Order.

Supplier shall maintain compliance with all applicable laws relating to privacy, confidentiality, and the collection, storage, and dissemination of personal information in the delivery of the Services, including, but not limited to the *Personal Health Information Protection Act, 2004* (PHIPA) and the Regulation and any other legislation in force from time to time that is applicable to a Party that contains provisions relating to the protection of personal information, including without limitation personal health information.

The covenants and agreements contained in this clause shall survive the termination of this Purchase Order.

12. Personal Health Information

To the extent that Supplier collects, discloses, accesses, or otherwise processes Personal Health Information ("PHI") under this Purchase order, the parties agree that such activities shall be governed by and comply with the provisions set out in Schedule A – Information Practices. The obligations in Schedule A are hereby incorporated into this Purchase Order by reference and shall apply in full to all PHI handled pursuant to this Purchase Order.

13. Delivery and Performance

Where a delivery/performance date or schedule is specified in this Purchase Order, timely delivery/performance is of the essence, and the Supplier shall be responsible for ensuring that such delivery is made and shall advise CHEO immediately of any anticipated delays and the reasons, therefore. Except for software, title to goods transfers to CHEO upon delivery. All goods will be delivered free of encumbrances; Supplier shall not register any encumbrances on any CHEO property; and Supplier shall ensure prompt removal of any encumbrances that arise by operation of statute registered on any CHEO property which relates to the performance of any work by Supplier or its subcontractors/agents.

14. Shipment

In the case of tangible goods, Supplier shall suitably pack, mark and ship in accordance with any instructions from CHEO and the requirements of common carriers in a manner to secure the lowest transportation cost, and no additional charge shall be made by the Supplier therefore unless otherwise stated herein. Supplier shall be liable for any difference in freight charges or damage to the goods resulting directly or indirectly from any failure by the Supplier to comply with this section. Risk of loss shall not pass to CHEO prior to receipt of applicable goods at CHEO's facilities.

15. Inspection and Rejection

CHEO shall have the right to conduct an inspection within a reasonable time after delivery of goods at CHEO's facilities, and/or completion of the work, as applicable, and if, in CHEO's reasonable discretion, any goods are deemed to be damaged, incomplete, or not in conformance with their documentation/required specifications or fit for their intended purpose; or work is deemed to be incomplete or deficient; such goods/work shall be subject to rejection by CHEO. The making or failure to make any inspection to, or payment for, or acceptance of goods or work, shall in no way impair CHEO's right to reject non-conforming goods/work, or to avail itself of any other remedies to which CHEO may be entitled.

16. Acceptance Testing

Where goods consist of equipment, software and/or deliverables (e.g., work), then following delivery and completion of installation/implementation (including training if applicable), CHEO shall have a 30 day period (or such other period as is specified on the Purchase Order) to perform acceptance tests in order to confirm that the goods operate without errors and in conformance to their documentation and any mutually agreed to documented requirements. If CHEO identifies any deficiencies during such acceptance test to Supplier, then Supplier shall promptly correct such deficiencies and allow CHEO a reasonable period to confirm such corrections. If Supplier is unable or unwilling to correct such deficiencies within a reasonable period then CHEO may, at its option, return the goods/work, cancel the acquisition and Supplier shall refund all amounts paid by CHEO pursuant to the Purchase Order in respect of the rejected goods/work and any other dependent goods/work whose value is diminished.

17. Ownership / Licensing

Ownership of any documents, including specifications or drawings, supplied by CHEO, or any documents or work product produced by the Supplier upon request of CHEO, including all associated intellectual property rights therein, shall always rest with CHEO. To the extent Supplier acquires any such rights, Supplier assigns and shall assign to CHEO; and shall take any future steps reasonably required to affect such assignment from Supplier, its employees, agents and subcontractors. Where a good or service includes provision to CHEO of software and/or other pre-existing Supplier materials, Supplier hereby grants a perpetual, irrevocable (subject to payment of applicable license fees), non-exclusive license to use such software and other pre-existing Supplier materials for its normal and intended purposes subject to any use limitations specified in the Purchase Order. For further certainty, any third-party proprietary information (expressly including any information concerning interfaces and/or file formats) to which Supplier is provided access by CHEO, or as contained in any CHEO provided materials, may not be used by Supplier except as required to perform the work for CHEO. Where any deliverables include new software created in the performance of the work, Supplier shall supply CHEO with the software in both object code and documented source code form, and any license to pre-existing components embedded in such deliverable shall include the right to modify such software. Where goods constitute pre-existing software: (a) Supplier shall retain copyright and all other intellectual rights in its preexisting software, with CHEO only receiving a license as provided for herein; (b) Ownership of any patches, updates or enhancements created by Supplier as part of its normal development and not based on specific CHEO provided requirements, and any bug fixes and maintenance updates developed to correct defects or errors in the software, shall be licensed to CHEO as part of the software license set out in this provision and ownership of such bug fixes and maintenance updates shall not be transferred to CHEO; (c) CHEO shall not reverse engineer, disassemble or modify any such pre-existing software that is provided in object code form only. Each party agrees to comply with applicable export control laws and regulations, including Canadian export control requirements that apply to U.S. origin goods and technology.

18. Warranty / Guarantee

Supplier represents, warrants and covenants that (a) the goods and/or work shall conform to the description and applicable specifications, drawings, samples, including description furnished or specified by CHEO, specified/referenced in this Purchase Order or RFP (where applicable), and/or required by applicable law or standards, shall be of good merchantable quality, of good material and workmanship, free from defect in manufacturing or design, and fit and sufficient for the purposes intended, and free and clear of all liens and encumbrances, and that the Supplier has absolute title and hereby conveys such title; (b) work shall be performed in a professional manner by properly trained and experienced personnel and in accordance with industry standards and best practices and documented requirements; and (c) documentation provided by Supplier shall accurately and comprehensively describe the installation, configuration, operation, (user level) maintenance, performance and functionality of the goods and shall

be sufficient to permit a technically competent person to effectively install, use and maintain (user level maintenance) the goods. Supplier shall promptly remedy any deficiency. The foregoing is in addition to any warranty or service guarantee given by the Supplier to CHEO or implied by law.

Except as otherwise provided in the Purchase Order, any supply of goods or performance of work shall include the provision of warranty services to correct defects (including non-conformance with documented requirements) in the goods or work. Such warranty services shall be provided by Supplier for a period of 12 months from acceptance. Thereafter, should CHEO desire to acquire, at its option and without any obligation herein to so acquire, additional warranty services, under a separate signed, written contract with the Supplier, Supplier shall offer such warranty services (in respect of goods, which may include software), for additional one year periods for at least 7 years following purchase (and thereafter for at least one year following written notice of Supplier of its intention to discontinue offering), at an annual fee which shall not exceed the annual fee for the initial chargeable annual term plus the general CPI+ 2%; but in any event which shall not exceed the year over year increase in the list price for the applicable goods; and upon terms that are no less favourable to CHEO than those set out herein. Such warranty services shall include: (a) the provision of updates as provided by Supplier to its purchasers of the goods who are receiving warranty services; (b) the provision of technical support and defect correction, including prompt provision of reasonable workarounds, and the availability of replacement parts and consumables/disposables to acquire, as applicable; and (c) in the case of equipment, performance of preventative maintenance on the equipment at a frequency as recommended by Supplier. Where the goods include software, then as part of such warranty services, Supplier shall ensure that all software components are promptly updated to address any known critical issues or security vulnerabilities, and that such software remains compatible with such updates of any third-party components such as operating systems that the software must interact with. If required by Supplier, CHEO agrees to apply software updates within 12 months of receipt so long as such updates do not adversely affect CHEO's use and are provided at no additional charge. During the life of any goods constituting equipment (or software operating on equipment), Supplier shall notify CHEO of any safety alerts. Supplier will not remove any component of the goods (such as storage media) containing any PHI from Supplier's facilities unless such information is permanently and destructively erased prior to removal. Any remote access by Supplier during implementation or provision of warranty services shall be performed in compliance with CHEO's Remote Access Policy (as advised by CHEO from time-to-time) as of the date of issuance of the Purchase Order.

19. Medical Devices

Where any goods constitute a "medical device" or are otherwise regulated by Health Canada: (a) prior to delivery Supplier shall obtain, and shall maintain throughout the useful life of the goods, any required Health Canada licenses in respect of the good and all updates and upgrades provided to CHEO; and (b) unless otherwise agreed by CHEO in writing, all updates and patches shall be applied by Supplier.

20. Publicity

Use of CHEO's name by the Supplier in any way which could be interpreted as constituting a testimonial, advertising, marketing or solicitation of business without the prior written consent of CHEO's Corporate Communications department is expressly forbidden.

21. Dispute Resolution

In the event of any dispute or disagreement between the parties with respect to the interpretation of any provision of this Purchase Order, the performance of the parties under the Purchase Order, or any other matter that is in dispute between the parties related to the Purchase Order, upon the written request of either party, CHEO and the Supplier will meet for the purpose of resolving such dispute. If the dispute cannot be settled within ten (10) days of its being referred thereto, it shall at the request of either party be referred to senior officials of Supplier and of CHEO. Such group shall have ten (10) days to resolve the dispute from when the dispute is referred to it.

The parties will discuss the problem and negotiate in good faith without the necessity of any formal proceedings related thereto. No formal proceedings for the resolution of such dispute may commence until such time as one of the implicated parties concludes reasonably and in good faith that applicable resolution through continued negotiation of the matter in issue does not appear likely.

22. Performance notwithstanding Dispute

Subject to the provisions of this Purchase Order, each party shall continue the performance of its obligations during the resolution of any dispute or agreement, including payment of undisputed amounts then due.

23. Arbitration of Disputes

Any dispute that has proceeded to be resolved without resolution may be submitted to arbitration of either party. The dispute shall be submitted to arbitration by a notice (the "Arbitration Notice") transmitted by personal delivery to the other party in the manner set forth in the notice provisions of this Purchase Order. The date on which the Arbitration Notice is delivered is the notice date (the "Notice Date"). Subject to the provisions hereinafter set forth, the arbitration will be conducted and determined in accordance with the Arbitration Act 1991 (Ontario), as amended from time to time. The procedure mandated by the Arbitration Act 1991 (Ontario) shall be modified as follows:

- The arbitration will be conducted in the City of Ottawa by a single arbitrator with suitable expertise to be agreed upon by the parties. If the parties cannot agree on the arbitrator within ten (10) business days of the Notice Date, the parties agree to accept an arbitrator appointed by the President of ADR Institute of Ontario presiding at the Notice Date.
- The rules to be applied for arbitration shall be the rules of the *Arbitration Act 1991* (Ontario). The arbitrator shall commence the arbitration hearing within forty-five (45) business days of the appointment of the arbitrator, and the arbitration shall be completed within thirty (30) days of the date that it commences. The arbitrator shall render a decision within ten (10) days after the arbitration is completed.
- Upon failure, refusal, or inability of the arbitrator to act, his or her successor shall be appointed in the same manner as provided his or her original appointment.
- The arbitrator shall render his/her decision in writing with counterpart copies to both parties. The costs of the arbitration, including the fees and expenses of counsel, expert and witness fees, and costs of the arbitrator shall be in the discretion of the arbitrator, who shall have the power to make any award which is just in the circumstances, and
- The determination arising out of the arbitration process including a determination of the arbitrator as to his/her jurisdiction to determine a matter in dispute shall be final and binding on the parties to the arbitration and no appeal shall be taken from any determination. The parties agree that the arbitrator shall not have the right to amend, change or vary any of the terms or conditions of this Purchase Order.

24. Matters Excluded from Arbitration

The following matters shall be excluded from arbitration:

- Claims for contribution or indemnity by a party against the other party brought in the same court as the court in which the suit against the party is brought; and
- A decision by either party to terminate this Purchase Order.

25. Injunctive Relief

Notwithstanding the provisions, each party shall retain the right, and nothing shall prevent either party from seeking immediate injunctive relief if, in its business judgment, such relief is necessary to protect its interests prior to utilizing or completing the dispute resolution process such as, for example, a claim by a party based on the misappropriation of any of its Confidential Information.

26. Termination

In the event that Supplier or CHEO is in default of any provision of this Purchase Order, or otherwise fails to perform the Services in accordance with the terms of this Purchase Order, the non-defaulting party may immediately terminate this Purchase Order if: (a) the defaulting party has been provided with written notice of a breach of contract and has failed to cure the breach to the non-defaulting party's satisfaction within thirty (30) calendar days. Either party may terminate this Purchase Order immediately if a party is adjudged bankrupt, makes a general assignment for the benefit of creditors because of insolvency, or if a receiver or trustee in bankruptcy is appointed. In addition, either party may, at any time, without cause or reason, upon giving thirty (30) calendar days advance written notice to the other terminate this Purchase Order for convenience.

CHEO shall not be liable to Supplier for costs or damages arising from termination of the Purchase Order except as explicitly set out in this section. The total aggregate payments to Supplier under this Purchase Order, including any other payment already made, shall under no circumstances exceed the Purchase Order Value as may be amended from time to time to reflect amendments to this Purchase Order.

27. Supplier's Indemnity

Supplier will defend, at its expense, any new claim or action (whether well-founded and whether for damage to property or injury or death to humans) brought against CHEO or its officers, directors, agents, physicians, or employees (collectively, the "Indemnified Party") arising out of or related to:

- (a) claims for bodily injury, including death, and loss or damage to tangible property, and claims asserted by third parties for bodily injury, including death, and loss or damage to tangible property;
- (b) any material and uncured breach or alleged material and uncured breach by the Supplier, its directors, officers, employees, and agents, including all Supplier's Personnel, of any of its obligations, warranties, or representations in this Purchase Order; and
- (c) any willful or negligent act or omission of the Supplier, its directors, officers, employees, or agents, including all Supplier's Personnel, in the performance of this Purchase Order.

All the above to the extent the damages being claimed were caused by the Supplier. Supplier shall indemnify and hold the Indemnified Party harmless against any such claim, action, demand, cost, charge, loss and expense with respect to all resulting costs, liabilities and damages, including legal costs on a solicitor and client basis provided that CHEO promptly notifies Supplier of any claim or action in respect of which this indemnity may apply and of which CHEO has knowledge, CHEO co-operates with Supplier in the defense of any such claim or action; and CHEO provides control to Supplier in the defense or settlement of any such claim or action. No such claim or action shall be settled or compromised by Supplier without CHEO's prior written consent, such consent shall not be unreasonably withheld.

Supplier's indemnifications and liability under this Purchase Order will be unlimited with respect to:

- (a) Claims for bodily injury or death, to the extent caused by Supplier's wrongful acts or omissions; and
- (b) Claims for loss or damage to tangible property, covering the actual cost to repair or replace the damaged property, to the extent caused by Supplier's wrongful acts or omissions.

28. Liability

Neither party shall be liable to the other party for lost profits, lost opportunity, special, consequential, incidental, exemplary, or indirect costs from any cause whatsoever, even if advised of the possibility of such costs or damages. A party's indemnification obligations as set out in this Purchase Order are excluded from this limit on liability.

29. Insurance

Supplier shall provide, maintain, and pay for the insurance coverage described in this section. The duration of each policy shall be for the duration of the Term of the Purchase Order, except for professional liability insurance which shall be maintained by the Supplier for a period of not less than two (2) years following completion or termination of the Purchase Order. The Supplier shall ensure that CHEO is named as an additional insured party under the Supplier's insurance policy put in effect and maintained pursuant to this Purchase Order. Prior to the commencement of the Services, Supplier shall furnish a Certificate of Insurance to CHEO in accordance with the insurance requirements set out below:

- (a) Comprehensive general liability insurance naming CHEO as additional insureds with limits of not less than \$3,000,000 per occurrence and \$3,000,000 as an annual aggregate covering liability for personal injury or property damage and including products and completed operations, cross-liability clause, and contractual liability coverage.
- (b) Professional liability insurance (also known as errors and omissions insurance) covering the negligent acts, errors, or omissions of the Supplier, its employees, agents, or subcontractors in the performance of the Services. Such insurance shall be written on a claims-made basis with limits of liability of not less than \$2,000,000 per claim and in the aggregate, per policy period, and shall be placed with an insurer licensed to conduct business in the Province of Ontario. CHEO reserves the right to require higher limits of professional liability insurance where the Services involve clinical judgment, patient safety, diagnostic services, systems design, data integrity, or regulatory compliance.

The policy shall include coverage for breach of professional duty, negligence, errors, omissions, misrepresentation, and failure to perform professional services in accordance with applicable standards of care. The Supplier shall ensure that coverage remains in force for claims made during the policy period and any applicable extended reporting period, and shall not cancel, materially alter, or permit the insurance to lapse without providing CHEO with not less than thirty (30) days' prior written notice. Failure to maintain professional liability insurance in accordance with this Purchase Order constitutes a material breach.

The Supplier shall maintain Professional Liability (Errors and Omissions) Insurance during the term of this Purchase Order and for a period of not less than three (3) years following completion of any services provided under this Purchase Order.

- (c) Automobile liability insurance in respect of licensed vehicles with limits of not less than \$2,000,000 per occurrence and as an annual aggregate and including owned and \$1,000,000 for non-owned vehicles.
- (d) Cybersecurity and Privacy liability insurance naming CHEO as additional insureds with limits of not less than \$5,000,000 per occurrence and \$5,000,000 as an annual aggregate covering liability for incidents of security breaches, privacy breaches, breach response service, notifications, business interruption due to actual or alleged acts, errors or omissions committed by, or on behalf of the Supplier, its agents, employees, or subcontractors.

The above policies are to include a provision requiring the insurer to provide not less than thirty (30) days' notice in writing in advance of cancellation. In addition to the foregoing, Supplier shall advise CHEO promptly in the event that Supplier's insurance coverage becomes inadequate and fails to meet the minimums set out in this Purchase Order.

It shall be the sole responsibility of Supplier to determine what additional insurance coverage, if any, is necessary and advisable for its own protection and/or to fulfill its obligations under this Purchase Order. Any such additional insurance shall be provided and maintained by Supplier at its own expense.

30. Application of CHEO's Rules

All rules, regulations and policies applicable to employees of CHEO regarding their behaviour and conduct in connection with the business and affairs of CHEO that relate to infection prevention and control, patient/staff/visitor health & safety, security and parking, smoke and scent free work environments, or such other policies that are mutually agreed to shall, insofar as the same shall be required by CHEO, be applicable to Supplier and the Supplier's personnel when on CHEO's premises. Without limiting the generality of the foregoing, Supplier shall ensure that the Supplier's personnel, when on CHEO premises, shall comply with all security regulations in effect at such premises and CHEO rules, regulations, and policies. It is the responsibility of Supplier's personnel to familiarize themselves with all such policies and regulations that govern the conduct of all staff and visitors to CHEO's premises.

If any of the Supplier's personnel shall fail or refuse to abide by such rules, regulations or policies, such person(s) shall, upon written notice from CHEO, be removed by Supplier from performing any services for CHEO. In the event of such removal of the Supplier's personnel by the Supplier, no liability of any kind or nature whatsoever shall attach to CHEO. CHEO further reserves to itself the right to disallow any of the Supplier's personnel admittance to CHEO's premises where such person fails or refuses to abide by such rules, regulations, or policies. The Supplier must cooperate with CHEO in any investigation undertaken by CHEO pursuant to such policies.

31. Security Checks

The Supplier covenants and agrees that it will not engage any employee or other person who provide Services in, at, or on any of CHEO campuses, sites, or buildings ("CHEO Site"), or who interact with CHEO personnel or patients at any CHEO Site, where such Supplier's employee or other person has been charged with or convicted of an offence the nature of which may be construed as jeopardizing the safety and well-being of CHEO patients, families or staff.

Prior to the commencement of the Services, the Supplier covenants and agrees to provide to CHEO a current (less than 6 months old) Criminal Record and Judicial Matters Check covering convictions, charges and occurrences under the Criminal Code, the Controlled Drugs and Substances Act, the Cannabis Act (Canada) and any other convictions, charges and occurrences for every employee of the Supplier or other person who are intended to provide Services in, at, or on any CHEO Site, or to interact with CHEO personnel or patients at any CHEO Site. The Supplier shall bear all costs associated with the provision of the Criminal Record and Judicial Matters Check(s) as described above, as well as any costs related to the provision of CHEO Access Cards/Badges. Note: Federal Government Clearances are not considered equivalent to and cannot be submitted in lieu of a Criminal Record and Judicial Matters Check.

The Supplier agrees to indemnify and save harmless CHEO from all claims, liabilities, expenses and penalties to which it may be subjected on account of the Supplier engaging an employee or other person to provide goods or deliver services in contravention of Section 17; or the Supplier's failure to provide a Criminal Background and Judicial Matters Check to CHEO. This indemnity shall survive the expiration or sooner termination of this Purchase Order. In addition to and notwithstanding anything else herein contained, if the Supplier engages an employee or other person to provide goods and/or perform Services in contravention of this Section 17, or fails to provide a Criminal Background and Judicial Matters Check for any employee of the Supplier or other person who may provide goods and/or services in, at, or on any CHEO Site, or who interact with CHEO personnel or patients at any CHEO Site, then CHEO will have the right to immediately terminate this Purchase Order without prejudice to any other rights which it may have in this Purchase Order, at law or in equity.

In the event that either the Criminal Background and Judicial Matters Check reveals a charge or a criminal conviction which is not acceptable to CHEO in the circumstances and in its sole and unfettered discretion, then CHEO will have the right to request that the Supplier prohibit the employee of the Supplier or other person who provides goods or performs services for the Supplier from providing Services to CHEO hereunder. Upon such request, the Supplier will forthwith affect such removal, without prejudice to any other rights which CHEO may have in this Purchase Order, at law or in equity.

The Supplier will use a third party to conduct criminal reference checks for onsite employees or others supporting this Purchase Order, which are to be submitted to CHEO at the time of Purchase Order acceptance.

32. Onsite Parking

CHEO does not provide free parking. Suppliers must pay for parking in public lots at CHEO or make alternate arrangements for paid parking through CHEO Parking Services.

33. Worker's Compensation.

Supplier shall make all payments required under the Workplace Safety and Insurance Act (Ontario), and under similar legislation in other jurisdictions, and shall indemnify and hold harmless the Indemnified Party from any failure to comply. Supplier shall provide CHEO with a certificate that Supplier is in good standing under the relevant workers' compensation legislation.

34. Severability

If any provision of this Purchase Order, or the application of such provision to any person or in any circumstance, shall be determined to be invalid, illegal, or unenforceable, the remaining provisions of this Purchase Order, and the application of such provision to any person or in any circumstance other than that to which it is held to be invalid, illegal, or unenforceable, shall not be affected thereby.

35. Time of Essence

Time shall be of the essence with respect to this Purchase Order.

36. Entire Agreement

This Purchase Order, together with all documents, drawings and specifications referred to herein, shall, when accepted by the Supplier, constitute the entire contract between the Supplier and CHEO, and shall not be altered, amended or supplemented without CHEO's prior written approval. CHEO shall not be bound by any terms or conditions in any of the Supplier's forms or documents including any shrink wrap, click-through, online agreement, user manual insert, or other contract of adhesion. Any of the Supplier's written acceptance of this Purchase Order, or the shipment of the goods, or the commencement of any work hereunder, shall constitute unqualified acceptance and no contrary or additional terms or conditions shall apply. CHEO may insist upon strict compliance with these terms and conditions despite any previous custom, practice or course of dealing to the contrary. To the extent that the subject Purchase Order incorporates by reference Supplier's quotation, proposal, policy or other documentation, then any pre-printed or standard terms or conditions contained in such documentation shall not be binding upon CHEO unless such terms or conditions are reproduced in the Purchase Order. Only an authorized signing officer of CHEO has authority to bind CHEO to any amendments of, or additional terms not included in, the Purchase Order or any other contract.

Where this Purchase Order is issued in connection with goods or work procured through an RFP process, the terms, conditions and requirements of the RFP ("RFP Terms") shall not merge upon the issuance of this Purchase Order; and the specifications / requirements set out for the goods/work in the RFP Terms are hereby incorporated into this Purchase Order; provided that any specifications/requirements expressly stated (or set out in supplementary terms and conditions referenced) on the face of this Purchase Order, shall take precedence over such specifications/requirements in the RFP Terms, but only to the extent of any inconsistencies therewith. Where a Purchase Order is issued for construction work that is indicated in the Purchase Order to be subject to CCDC2 terms, then such work shall not be subject to these Purchase Order terms and conditions and instead shall be subject to the CCDC2 terms as amended by CHEO's CCDC2 supplementary conditions.

This Purchase Order and its integrated attachment(s) constitute the entire agreement between the parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, forms, conditions, undertaking or collateral agreements, express, implied, or statutory between the parties other than as expressly set forth in this Purchase Order, and duly executed Schedules and Addendums hereto.

This Purchase Order may only be amended by a written document which specifically refers to the provision(s) of this Purchase Order to be amended and is signed by both parties.

37. Changes

CHEO reserves the right, upon reasonable notice prior to delivery of the subject goods or work being procured, to make any reasonable changes to this Purchase Order including, without limitation, changes in drawings and specifications, additions or deletions from the quantities, or termination of the entire Purchase Order. If any such change causes any increase or decrease in the cost of, or the time required for, the performance of any part of this Purchase Order, an equitable adjustment shall be determined in the price or delivery date or both, and this Purchase Order shall be modified in writing accordingly. Any dispute or claim arising with respect to said change shall be asserted by the Supplier within 30 days of the notification of change from CHEO. Acceptance of goods hereunder shall not bind CHEO to accept future shipments, nor deprive CHEO of the right to return goods already received.

38. Notices

Supplier shall submit written notice to the CHEO Buyer named on the Purchase Order within ten (10) business days of any change to Supplier's name, address contact information, key personnel, organizational structure, such as merger, acquisition or change in form of business or legal standing. A change in Supplier's name and certain changes in organizational structure requires an amendment to this Purchase Order.

Notices shall be in writing and shall be delivered by email, postage-prepaid envelope, personal delivery or facsimile and shall be addressed to the CHEO Buyer named on the Purchase Order or Supplier representative.

Notices shall be deemed to have been given:

- (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or,
- (b) in the case of personal delivery or facsimile, or email, one (1) Business Day after such notice is sent in accordance with this paragraph.

In the event of postal disruption, notices must be given by personal delivery or by facsimile or email, unless the parties expressly agree in writing to additional methods of notice. Notices may only be provided by the methods contemplated in this Section.

39. Force Majeure

Neither party will be liable for any delay or for failure to perform its obligations under the Purchase Order resulting from any cause beyond its reasonable control, including but not limited to acts of God, inclement weather, storm, earthquake, lightning, fire, explosion or flood, war, riots or civil disturbances, terrorism, acts of government, epidemics or pandemics (a "Force Majeure") provided, that the party whose performance is delayed or who is unable to perform as a result of one of the foregoing causes promptly furnishes notice to the other party and resumes performance as soon as reasonably practicable.

The party whose performance is affected by the Force Majeure will: (a) promptly notify the other party of the circumstances creating the failure or delay; (b) provide reasonably sufficient information to describe the impact of the party's failure or delay; and (c) use commercially reasonable efforts to re-commence performance whenever and to whatever extent possible without delay, including workaround plans, implementation of a disaster recovery plan or other means.

40. No Waiver

Failure of CHEO to insist upon strict performance of any of the terms and conditions hereunder, or to exercise any rights or remedies provided herein or by law, or to properly notify Supplier in the event of breach, or the acceptance of or payment for any goods hereunder, or approval of design, shall not constitute waiver by CHEO of any of its rights hereunder nor release Supplier of any warranties or obligations of this purchase order.

41. Assignment

Neither party may assign this Purchase Order or any of their rights or obligations under this Purchase Order without the other party's written consent.

42. Enurement

This Purchase Order shall be binding upon and shall enure to the benefit of each of the parties hereto and their respective employees and permitted receivers, successors, and assigns.

SCHEDULE A

PRIVACY AND INFORMATION SECURITY

A. Authority for Handling Personal Health Information

- (1) CHEO is an organization that handles Personal Health Information ("PHI"), as a "health information custodian" and/or "agent", under the *Personal Health Information Protection Act* ("PHIPA"). The Supplier acknowledges and agrees that, in the course of its engagement with CHEO, it may process PHI. The Supplier agrees to use PHI solely as part of the Supplier's provision of services to and on behalf of CHEO, and not on the Supplier's behalf or for the Supplier's own purposes.
- (2) The Supplier shall only access, use, disclose, transmit, store or otherwise handle CHEO's PHI on behalf of CHEO (collectively, "use"):
 - i. as and to the extent necessary to fulfill its obligations under the Purchase Order, and for no other purpose; and,
 - ii. in compliance with PHIPA, other applicable laws, and relevant guidance issued by the IPC and applicable privacy authorities.
- (3) PHI received from, generated for, or collected on behalf of CHEO is and will remain the property of CHEO. The Supplier shall not be deemed or construed in any way to have any ownership of the PHI, except as expressly permitted in the Purchase Order.
- (4) The Supplier will only make PHI available only to those employees, contractors, agents (paid or unpaid), or other representatives who require access to the PHI to perform any part of the Services ("Personnel").
- (5) The Supplier shall comply with the terms and conditions set forth in this Schedule A in its use of PHI and be responsible for any instances of non-compliance that occur due to the use of PHI by the Supplier or the Supplier's Personnel. The Supplier shall be responsible for, and remain liable to, CHEO for the actions and omissions of all the Supplier's Personnel, concerning the use of PHI and compliance with this Schedule A as if they were the Supplier's own actions and omissions.
- (6) The Supplier's obligations under the Purchase Order stem from the obligations of both CHEO and the Supplier under applicable privacy legislation, and in light of the foregoing, are not conditional on CHEO's compliance with any of its obligations under the Purchase Order, including its obligation to pay the Supplier.

B. Notification of and Communication with CHEO

- (1) Communication with CHEO's Chief Privacy Officer can be directed to:
Privacy Office
Email: privacy@cheo.on.ca
Phone: 613-737-7600 ext. 3646
- (2) Upon written request, the Supplier will provide CHEO with the name of a contact person at the Supplier's organization responsible for the Supplier's privacy compliance and notify CHEO within 24 hours of any changes in the identity of the person responsible.
- (3) The Supplier will provide advance notice to CHEO's Privacy Office if the nature of the Supplier's business and the services being provided to CHEO require that the PHI be used by any of the Supplier's Personnel for a purpose other than the Services; or if the location in which PHI will be used will be changed. When providing notice, the Supplier will specify where outside of Ontario the PHI will be transmitted or from where it will be accessed.
- (4) Upon receiving an access request from law enforcement, the Supplier will promptly notify CHEO of the request, refuse to provide access in the absence of a warrant, and direct law enforcement to make its request directly to CHEO.
- (5) The Supplier shall, where legally permissible, promptly notify CHEO in writing of any legally compelled disclosure of PHI, and shall reasonably cooperate with CHEO in seeking appropriate protective measures to prevent or limit such disclosure. The Supplier will take steps to limit the PHI disclosed to that which the Supplier is legally compelled to disclose.
- (6) The Supplier will notify CHEO of any changes in ownership or control of all or part of the Supplier's business and any proceedings for bankruptcy or insolvency brought by or against the Supplier.

C. The Supplier's Personnel and Third Parties

- (1) The Supplier will make good faith efforts to ensure that any of its Personnel to whom the Supplier provides the PHI has agreed in writing to the same restrictions and conditions that apply to the Supplier with respect to PHI.
- (2) The Supplier will educate its Personnel on privacy laws, general privacy policies, and privacy policies specific to the services provided (including but not limited to not re-identifying de-identified information, and methods and expectations for reporting security incidents and privacy breaches), and will take reasonable steps to ensure Personnel compliance with these laws and policies through training, confidentiality agreements, and the application of sanctions for non-compliant behaviour.
- (3) The Supplier will ensure that all Personnel who have access to PHI from CHEO have undergone screening that includes reference checks.
- (4) The Supplier will ensure that its Personnel who are fired, resign, or no longer require access to PHI belonging to CHEO return all PHI to the Supplier and can, thereafter, no longer access PHI belonging to CHEO.
- (5) The Supplier will revoke any user's access to PHI if any terms in this Purchase Order are breached through intention or repeated negligence.
- (6) The Supplier will not disclose or otherwise provide or make available PHI to any affiliated or unaffiliated third party without the prior written consent of CHEO.
- (7) The Supplier is not permitted to subcontract the whole or any part of the Purchase Order without the prior written agreement of CHEO and assurance that the subcontractor will be bound to the same or equivalent contractual obligations that are imposed in this Purchase Order.

D. General Safeguards

- (1) Without limiting the Supplier's obligations, the Supplier shall implement appropriate safeguards to protect PHI against loss, theft, and unauthorized collection, use, disclosure, access, modification, storage or disposal, that are no less rigorous than those applied to the Supplier's own personal information/PHI and/or accepted industry practices.
- (2) The Supplier represents and warrants that its use of PHI does and will comply with all applicable federal, provincial, and international privacy and data protection laws.
- (3) The Supplier shall not copy, reproduce, sell, modify, alter, manipulate, de-identify, re-identify, or link the PHI for any purpose other than providing the services under the Purchase Order and only as and when necessary to fulfil the purpose.
- (4) The Supplier shall not (a) use PHI outside of Canada, or (b) permit PHI to be used outside of Canada.
- (5) The Supplier shall not (a) store encryption keys, used to protect CHEO PHI at rest, in transit or during use, outside of Canada, or (b) permit encryption keys to be used outside of Canada.
- (6) If the Supplier is permitted by CHEO to use any facility located outside of Canada, that permission does not amount to a waiver of any of the Supplier's obligations set out in this Schedule A.
- (7) If the Supplier is permitted by CHEO to use any facility located outside of Canada, or the Supplier does so without permission, and the application of the laws of that jurisdiction means that CHEO (i) becomes subject to answer to any claims, demands, suits or actions in that jurisdiction as a result, or (ii) acting reasonably, has to commence a claim, demand, suit or action in that jurisdiction to enforce CHEO's rights under this Purchase Order, the Supplier agrees to fully and unconditionally indemnify and hold CHEO harmless from all charges, losses, damages and expenses (including reasonable legal fees and disbursements) incurred as a result.
- (8) The Supplier will (a) implement functionality that logs all user access to and uses of CHEO PHI, including, as applicable, access by CHEO authorized users, access by any of the Supplier authorized users, and access by other third parties authorized by CHEO; and (b) provides extracts of these logs ("Audit Reports") available to CHEO upon request. At a minimum, the Audit Report shall include the following:
 - i. The type of information that was viewed, handled, modified or otherwise dealt with;
 - ii. The date and time on which the information was viewed, handled, modified or otherwise dealt with;
 - iii. The identity of all persons who viewed, handled, modified or otherwise dealt with the PHI; and
 - iv. The identity of the individual to whom the PHI relates.

E. De-Identified Information

- (1) The Supplier acknowledges and agrees that de-identified information (including anonymized and pseudonymized information):
 - i. originates from PHI, and has been de-identified by or on behalf of CHEO, or lawfully acquired by CHEO from a third party; and
 - ii. remains subject to contractual and legal restrictions, including prohibitions on re-identification, use, or other handling for any purpose not expressly authorized by CHEO.
- (2) The Supplier shall use de-identified information solely for the purpose(s) specified in this Purchase Order, and for no other purpose. No secondary use, disclosure, analysis, or other

handling of de-identified information (including, without limitation, for research, analytics, or commercial purposes) is permitted without CHEO's prior written authorization.

- (3) The Supplier shall not re-identify or attempt to re-identify any individual from de-identified information and shall ensure that its Personnel and third parties adhere to this obligation.
- (4) The Supplier shall request, collect, and retain only the minimum amount of de-identified information necessary to fulfill the purpose specified in the Purchase Order, and shall not seek access to, store, or otherwise use any de-identified information beyond what is required for the delivery of the Services.

F. Artificial Intelligence

- (1) The Supplier shall not use PHI to train, refine, or otherwise improve artificial intelligence, machine learning, or automated decision-making technologies, unless expressly authorized in writing by the Supplier and permitted by applicable laws.
- (2) If the Supplier uses artificial intelligence, machine learning, or automated decision-making technologies in the course of providing the services, it shall disclose such usage to CHEO, including the nature, scope, and hosting environment of the technologies used, in advance and in writing. Public cloud-based technologies shall not be used in conjunction with PHI without CHEO's prior written authorization.
- (3) Where authorized, the Supplier shall implement and maintain detailed logs of all uses of PHI or de-identified information using these technologies. These logs shall include, at a minimum, the date and time of processing, the type of information processed, the purpose of processing, the type of technologies used, and the personnel or systems initiating the processing. Such logs shall be retained for a period specified by CHEO and made available to CHEO upon request.

G. Compliance & Assessment

- (1) The Supplier will maintain and comply with privacy policies and procedures in accordance with applicable Canadian and Ontario laws and, in particular, privacy and data security policies and procedures relating to the protection of PHI used in the course of providing the Services, as amended from time to time. The Supplier will not amend the policies or procedures in any way that materially decreases the protection afforded to CHEO.
- (2) At a minimum, the Supplier shall maintain a set of policies that include without limitation:
 - i. privacy;
 - ii. cybersecurity;
 - iii. enterprise infrastructure;
 - iv. access control;
 - v. disaster recovery/business continuity;
 - vi. acceptable use;
 - vii. remote access;
 - viii. vulnerability management;
 - ix. network architecture;
 - x. user access control management;
 - xi. wi-fi security; and
 - xii. physical security.

- (3) The Supplier will comply with obligations outlined by CHEO that are necessary to enable CHEO to comply with its statutory obligations and with the terms set forth in this Schedule A.
- (4) The Supplier shall monitor and notify CHEO of any and all changes to the services that result in changes to how PHI is collected, used, disclosed, stored, modified, disposed or otherwise handled. Upon request, the Supplier shall provide CHEO with network or data flow diagrams or descriptions that outline the Supplier's use of PHI within or between networks, between or across parties, or within or between applications.
- (5) CHEO may, upon reasonable notice, assess and review the Supplier's training, policies, procedures, and any other records maintained by the Supplier in connection with the provision of the Services, for the purposes of verifying that the terms of this Schedule A are being complied with. For these purposes, the Supplier shall provide CHEO with reasonable access to the policies, procedures and protocols used for purposes of providing the Services and any other documents that may be relevant. CHEO shall take all reasonable efforts not to unduly disrupt the operations of the Supplier while undertaking any such review.
- (6) The Supplier shall, promptly and at no additional cost to CHEO, fully cooperate with any privacy impact assessment (PIA) or threat risk assessment (TRA) process that CHEO may initiate or require in connection with the Services. This includes, without limitation, providing timely access to relevant documentation, systems, personnel, responses to questionnaires or other assessment tools, and implementation of any measures recommended to mitigate risks identified as high priority, as reasonably requested by CHEO. The Supplier agrees to mitigate all high risks identified in a PIA or TRA, at no cost to CHEO.
- (7) In the event that CHEO makes a complaint to the Supplier, or an End User or member of the public makes a complaint to the Supplier, in respect of the Supplier's compliance with this Schedule A, the Supplier shall, within five (5) business days of receipt of the complaint, investigate the matter and provide CHEO with a report stating the cause of the deficiency, if any, and the steps taken to prevent a recurrence, if required.
- (8) The Supplier will take steps, promptly, to facilitate CHEO's compliance with orders or direction provided by Ontario's Information & Privacy Commissioner, or from the commissioner in another applicable jurisdiction, related to the handling of PHI used by the Supplier in the course of providing the services.
- (9) CHEO reserves the right to seek an order stopping or preventing the Supplier from violating the privacy terms in this Schedule. The Supplier acknowledges that any breach of these practices will result in CHEO suffering irreparable harm and may result in monetary, reputational, or other consequences for the Supplier, defined in and permitted under PHIPA.

H. Security Safeguards

- (1) The Supplier will implement and maintain strong administrative, physical and technical safeguards consistent with industry best information security practices and frameworks, and applicable laws, to protect the PHI from theft, loss, unauthorized use, modification, disclosure, destruction and/or damage, including in the design, implementation maintenance and management of any technology infrastructure used to process PHI.
- (2) During the term of the Purchase Order, the Supplier will remain in compliance with the following standards:
 - i. ISO 27000 series; and
 - ii. SSAE 18 SOC 2
- (3) The Supplier shall provide CHEO with copies of its current ISO 27001 certification and SOC 2 Type II report annually, including details of the scope, auditor, and any findings. The Supplier shall provide evidence of timely remediation for any identified deficiencies.

- (4) The Supplier shall maintain a documented information security program around the PHI that meets or exceeds current industry standard practice to protect against threats to any unauthorized or accidental destruction, loss, alteration, use, disclosure of and access to CHEO PHI.
- (5) The Supplier shall designate an individual responsible for information security within its organization and have defined information security roles and responsibilities throughout the organization. The Supplier shall provide the name and contact information of this designated individual to CHEO upon request.
- (6) The Supplier will put in place reasonable security measures to secure any data centre or storage facilities where PHI will be stored, including protection from unauthorized entry by means of access controls and maintaining logs of all personnel who enter the facility, along with other requirements set forth in the following standards:
 - i. ANSI/TIA 942 (as published by the Telecommunications Industry Association) at a Rated-3/Tier-3 level;
 - ii. a Tier III certification by the Uptime Institute (or its industry equivalent); and
 - iii. SSAE No. 18 Type II compliant (or its industry equivalent).
- (7) Safeguards around PHI will include patch maintenance, firewalls, locks and other access controls, along with other safeguards specified in this Schedule A.
- (8) Unless expressly set out otherwise, the Supplier will encrypt all PHI, both in motion and at rest, using a strong cryptographic protocol that is consistent with the CHEO's cybersecurity policies and industry standards as updated from time to time, such as FIPS 140-2, FIPS 140-3, ISO27001 or NIST SP 800-175B. Under no circumstances shall data be encrypted using a standard weaker than 256-bit. All encryption keys must be unique to the PHI. The Supplier will secure and protect all encryption keys using reasonably secure methods per cybersecurity industry standards.
- (9) The Supplier will ensure that its Personnel who are permitted and require access to data centre or storage facilities where PHI will be stored are subject to appropriate confidentiality and privacy obligations consistent with the obligations in this Schedule A. The Supplier shall ensure that its Personnel only access the PHI in the agreed upon manner, are provided a unique username and password, are required to choose or set complex passwords, and are prohibited from sharing log-in credentials with anyone. Administrator accounts will be protected through privileged account management processes that include, but are not limited to, multi-factor authentication (MFA) to access PHI.
- (10) The Supplier shall actively monitor its systems for vulnerabilities, including patching and reporting of critical vulnerabilities affecting its services.
- (11) The Supplier shall perform periodic penetration testing of systems handling PHI, with results and remediation plans shared with CHEO insofar as the results impact CHEO's consumption of services.
- (12) The Supplier shall actively monitor its systems by installing commercially available anti-virus and system monitoring software that among other things, contemporaneously detect the status and findings of anti-virus scans and other monitoring reasonably applicable in information technology systems; and shall have in place and maintain such available anti-virus and system monitoring software at all times.
- (13) The Supplier shall maintain clear and effective segregation between Confidential Information, De-Identified Information, and PHI in all systems, databases, documentation, and workflows. This includes separate storage locations, access controls, and processing protocols to prevent inadvertent mixing, misuse, or unauthorized access to different data types.
- (14) The Supplier shall implement multi-factor authentication for all Personnel accessing PHI, including administrators and end users.

- (15) The Supplier shall commission information security reviews to be conducted by external, independent parties at a minimum annual frequency, and the scope of such reviews shall include: (i) the entirety of all Services contemplated in the Purchase Order; (ii) the Supplier's compliance with ISO 27001; (iii) the Supplier's compliance with SSAE 18 SOC 2; and (iv) the Supplier's compliance with any other security standard with which the Supplier claims compliance either in this Purchase Order or in any of its published materials. It will promptly address any security issues noted in those reports. It will promptly provide CHEO with a copy of such reports, together with a summary of the steps that have been, and will be, taken to address any security issues identified in the reports.
- (16) Unless another component or amendment to this Purchase Order expressly requires the Supplier to do so more frequently, the Supplier will back-up the PHI, application data (where applicable), and service data (where applicable) at least once every 24 hours, and the Supplier will maintain back-ups as follows: daily backups will be retained for the previous 7 days; weekly backups for the previous month; and monthly backups for the previous two years. The Supplier will store backups at an offsite facility that is physically separate from the Supplier's primary site used to provide the Services.
- (17) In the event of data loss caused by any failure of the Services and within 72 hours of the occurrence of that data loss, the Supplier will restore or recover all then current PHI, application data, and Service data at no cost to CHEO, and the Supplier will use its best efforts to do so. If the Supplier fails to regenerate the lost or destroyed PHI within 72 hours of the occurrence of that data loss, CHEO may obtain data reconstruction services from a third party. Upon CHEO's request, the Supplier will cooperate with such third party at no additional charge. In addition to any other damages incurred by CHEO, the Supplier will be responsible for the actual reconstruction costs incurred by CHEO.

I. CHEO's Research Participants & Families

- (1) The Supplier will refer anyone trying to access, correct, or complain about CHEO's handling of PHI, including that in use by the Supplier, to the CHEO Privacy Office within 48 hours of receiving the complaint or request for access or correction, and will direct the individual or party to submit their request to CHEO directly and in writing. The Supplier will not initiate or maintain direct contact with any End User or family member, legal guardian, or member of the public.
- (2) The Supplier will cooperate with and assist CHEO in the management of any such request for access or correction or complaint.
- (3) The Supplier will, upon request, make PHI available to CHEO for amendment and will incorporate any amendments into the Supplier's records of PHI.
- (4) During the term of the Purchase Order and afterward as contemplated within Section L, the Supplier may never deny CHEO lawful and compliant access to its End Users' PHI.
- (5) The services will include an export or download function so that CHEO may export or download a copy of the PHI in a commercially reasonable format when CHEO chooses to do so.

J. Incidents & Breaches

- (1) A "Security Incident" means any event that materially compromises the security, confidentiality, integrity, or availability of PHI or of the Services, including, without limitation: unauthorized uses or disclosures of PHI; the failure, compromise or insufficiency of safeguards implemented by the Supplier or any Third-Party Provider; any complaint, breach, or alleged breach of this Purchase Order relating to the security safeguards; or system failures, DDOS attacks, cyberattacks/ ransomware, other malicious acts, or other vulnerabilities affecting the protection of PHI.
- (2) A "Privacy Incident" means any event in which PHI is lost, stolen, or handled in an unauthorized way, including unauthorized access, use, disclosure, disposal, storage, transmission or retention,

including but not limited to damage or alteration, through a Security Incident or non-security event.

- (3) Upon becoming aware of any actual or suspected Security Incident or Privacy Incident (collectively, a "Breach"), the Supplier shall:
 - i. immediately, and no later than twenty-four (24) hours after first becoming aware, notify CHEO in writing;
 - ii. refrain from further use or handling of the affected PHI unless and until directed otherwise by CHEO (except as necessary to contain or investigate the Breach);
 - iii. not disclose the existence or circumstances of the Breach to any third party without CHEO's prior written consent, except:
 - a) as required by law, with prior written notice to CHEO where legally permissible; or
 - b) to the Supplier's other customers, provided that such disclosure does not identify CHEO or CHEO's PHI; and
 - iv. fully cooperate with CHEO in investigating and mitigating the Breach, including:
 - a) providing timely access to relevant logs, systems, facilities, and personnel;
 - b) preserving all relevant records and evidence; and
 - c) providing ongoing updates as new information becomes available.
- (4) Where notice of a Breach to any third party, including regulators, law enforcement, and/or affected individuals, may be required, CHEO shall have the sole right to determine, in consultation with the Supplier, whether such notice is required and which party shall be responsible for providing it.
- (5) The Supplier shall take all reasonable steps to contain, mitigate, and remediate any Breach in its control, including implementing any corrective actions required by a privacy regulator or reasonably requested by CHEO.
- (6) The Supplier shall be solely responsible for all costs and expenses arising from or related to any Breach caused by its acts or omissions, or those of its Personnel or Third-Party Providers. This includes, where applicable and without limitation, any costs of: Breach investigation, containment, and remediation; notification to affected individuals; credit monitoring or identity protection services; legal, regulatory, and consulting fees; and fines, penalties, or damages imposed by regulators. The Supplier shall also indemnify, defend (at CHEO's option), and hold harmless CHEO from and against any claims, losses, liabilities, or expenses (including reasonable legal fees and disbursements) arising from such Breach.

K. Retention, Destruction & Termination

- (1) Upon completion or early termination of the Services, or upon written direction by CHEO, the Supplier shall, at CHEO's option, either:
 - i. promptly return to CHEO all PHI and copies of PHI in the Supplier's possession in a secure manner in a format reasonably agreed to by the parties;
 - ii. promptly and irreversibly destroy all PHI in the Supplier's possession in a secure and permanent manner, that meets expectations of Ontario's privacy commissioner and industry best practices, ideally aligned with NIST SP 800-88, and is accompanied by a certificate of destruction, or
 - iii. both (a) and (b).

- (2) For clarity, where the Supplier is providing cloud data storage services, CHEO will have the option, upon written request to the Supplier delivered prior to the date of completion/termination of such services, to delay the return or deletion of such data for up to sixty (60) days from the date of completion/termination. If such return or destruction of PHI is not feasible, the Supplier will notify CHEO of this fact, extend the protection of the Purchase Order to all PHI in its custody and will cease all further uses.

L. Survival

The provisions of this Schedule A which by their nature should survive termination or expiration shall survive, and any accrued rights or obligations. Such provisions shall remain in full force and effect notwithstanding the termination or expiration of the Purchase Order.

END OF SCHEDULE A

END OF PURCHASE ORDER TERMS AND CONDITIONS