

ONTARIO TRANSFER PAYMENT AGREEMENT

THE AGREEMENT effective as of the 1st day of April, 2018

BETWEEN:

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Health and Long-Term Care**

(the "Province")

- and -

Regional HIV/AIDS Connection

(the "Recipient")

CONSIDERATION

In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Province and the Recipient agree as follows:

1.0 ENTIRE AGREEMENT

1.1 The agreement, together with:

Schedule "A" - General Terms and Conditions
Schedule "B" - Project Specific Information and Additional Provisions
Schedule "C" - Project
Schedule "D" - Budget
Schedule "E" - Payment Plan
Schedule "F" - Reports, and
any amending agreement entered into as provided for in section 4.1,

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

2.0 CONFLICT OR INCONSISTENCY

2.1 **Conflict or Inconsistency.** In the event of a conflict or inconsistency between the Additional Provisions and the provisions in Schedule "A", the following rules will apply:

- (a) the Parties will interpret any Additional Provisions in so far as possible, in a way that preserves the intention of the Parties as expressed in Schedule "A"; and
- (b) where it is not possible to interpret the Additional Provisions in a way that is consistent with the provisions in Schedule "A", the Additional Provisions will prevail over the provisions in Schedule "A" to the extent of the inconsistency.

3.0 COUNTERPARTS

3.1 The Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

4.0 AMENDING THE AGREEMENT

4.1 The Agreement may only be amended by a written agreement duly executed by the Parties.

5.0 ACKNOWLEDGEMENT

5.1 The Recipient acknowledges that:

- (a) by receiving Funds it may become subject to legislation applicable to organizations that receive funding from the Government of Ontario, including the *Broader Public Sector Accountability Act, 2010* (Ontario), the *Public Sector Salary Disclosure Act, 1996* (Ontario), and the *Auditor General Act* (Ontario);
- (b) Her Majesty the Queen in right of Ontario has issued expenses, perquisites, and procurement directives and guidelines pursuant to the *Broader Public Sector Accountability Act, 2010* (Ontario);
- (c) the Funds are:
 - (i) to assist the Recipient to carry out the Project and not to provide goods or services to the Province;
 - (ii) funding for the purposes of the *Public Sector Salary Disclosure Act, 1996* (Ontario);
- (d) the Province is not responsible for carrying out the Project; and

- (e) the Province is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province in connection with the Project or otherwise in connection with the Agreement may be subject to disclosure in accordance with that Act.

- SIGNATURE PAGE FOLLOWS -

The Parties have executed the Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO as represented by the Minister of Health
and Long-Term Care**

MAY 11 2018

Date



Name: Roselle Martino
Title: Assistant Deputy Minister

Regional HIV/AIDS Connection

May 8/18
Date



Name: BRIAN LESTER
Title: EXECUTIVE DIRECTOR

I have authority to bind the Recipient.

Date

Name:
Title:

I have authority to bind the Recipient.

SCHEDULE "A"
GENERAL TERMS AND CONDITIONS

A1.0 INTERPRETATION AND DEFINITIONS

A1.1 **Interpretation.** For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;
- (c) the headings do not form part of the Agreement; they are for reference only and will not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency will be in Canadian dollars and currency; and
- (e) "include", "includes" and "including" denote that the subsequent list is not exhaustive.

A1.2 **Definitions.** In the Agreement, the following terms will have the following meanings:

"Additional Provisions" means the terms and conditions set out in Schedule "B".

"Agreement" means this agreement entered into between the Province and the Recipient, all of the schedules listed in section 1.1, and any amending agreement entered into pursuant to section 4.1.

"Budget" means the budget attached to the Agreement as Schedule "D".

"Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which the Province has elected to be closed for business.

"Effective Date" means the date set out at the top of the Agreement.

"Event of Default" has the meaning ascribed to it in section A13.1.

"Expiry Date" means the expiry date set out in Schedule "B".

"Funding Year" means:

- (a) in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following March 31; and

- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on April 1 following the end of the previous Funding Year and ending on the following March 31.

“Funds” means the money the Province provides to the Recipient pursuant to the Agreement.

“Indemnified Parties” means Her Majesty the Queen in right of Ontario, Her ministers, agents, appointees, and employees.

“Maximum Funds” means the maximum Funds set out in Schedule “B”.

“Notice” means any communication given or required to be given pursuant to the Agreement.

“Notice Period” means the period of time within which the Recipient is required to remedy an Event of Default pursuant to section A13.3(b), and includes any such period or periods of time by which the Province extends that time in accordance with section A13.4.

“Parties” means the Province and the Recipient.

“Party” means either the Province or the Recipient.

“Project” means the undertaking described in Schedule “C”.

“Reports” means the reports described in Schedule “F”.

A2.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS

A2.1 General. The Recipient represents, warrants, and covenants that:

- (a) it is, and will continue to be, a validly existing legal entity with full power to fulfill its obligations under the Agreement;
- (b) it has, and will continue to have, the experience and expertise necessary to carry out the Project;
- (c) it is in compliance with, and will continue to comply with, all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules, and by-laws related to any aspect of the Project, the Funds, or both; and
- (d) unless otherwise provided for in the Agreement, any information the Recipient provided to the Province in support of its request for funds (including information relating to any eligibility requirements) was true and complete at the time the Recipient provided it and will continue to be true and complete.

A2.2 **Execution of Agreement.** The Recipient represents and warrants that it has:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement.

A2.3 **Governance.** The Recipient represents, warrants, and covenants that it has, will maintain in writing, and will follow:

- (a) a code of conduct and ethical responsibilities for all persons at all levels of the Recipient's organization;
- (b) procedures to enable the Recipient's ongoing effective functioning;
- (c) decision-making mechanisms for the Recipient;
- (d) procedures to enable the Recipient to manage Funds prudently and effectively;
- (e) procedures to enable the Recipient to complete the Project successfully;
- (f) procedures to enable the Recipient to identify risks to the completion of the Project and strategies to address the identified risks, all in a timely manner;
- (g) procedures to enable the preparation and submission of all Reports required pursuant to Article A7.0; and
- (h) procedures to enable the Recipient to address such other matters as the Recipient considers necessary to enable the Recipient to carry out its obligations under the Agreement.

A2.4 **Supporting Proof.** Upon the request of the Province, the Recipient will provide the Province with proof of the matters referred to in Article A2.0.

A3.0 **TERM OF THE AGREEMENT**

A3.1 **Term.** The term of the Agreement will commence on the Effective Date and will expire on the Expiry Date unless terminated earlier pursuant to Article A11.0, Article A12.0, or Article A13.0.

A4.0 **FUNDS AND CARRYING OUT THE PROJECT**

A4.1 **Funds Provided.** The Province will:

- (a) provide the Recipient up to the Maximum Funds for the purpose of carrying out the Project;

- (b) provide the Funds to the Recipient in accordance with the payment plan attached to the Agreement as Schedule “E”; and
- (c) deposit the Funds into an account designated by the Recipient provided that the account:
 - (i) resides at a Canadian financial institution; and
 - (ii) is in the name of the Recipient.

A4.2 Limitation on Payment of Funds. Despite section A4.1:

- (a) the Province is not obligated to provide any Funds to the Recipient until the Recipient provides the certificates of insurance or other proof as the Province may request pursuant to section A10.2;
- (b) the Province is not obligated to provide instalments of Funds until it is satisfied with the progress of the Project;
- (c) the Province may adjust the amount of Funds it provides to the Recipient in any Funding Year based upon the Province’s assessment of the information the Recipient provides to the Province pursuant to section A7.1; or
- (d) if, pursuant to the *Financial Administration Act* (Ontario), the Province does not receive the necessary appropriation from the Ontario Legislature for payment under the Agreement, the Province is not obligated to make any such payment, and, as a consequence, the Province may:
 - (i) reduce the amount of Funds and, in consultation with the Recipient, change the Project; or
 - (ii) terminate the Agreement pursuant to section A12.1.

A4.3 Use of Funds and Carry Out the Project. The Recipient will do all of the following:

- (a) carry out the Project in accordance with the Agreement;
- (b) use the Funds only for the purpose of carrying out the Project;
- (c) spend the Funds only in accordance with the Budget;
- (d) not use the Funds to cover any cost that has or will be funded or reimbursed by one or more of any third party, ministry, agency, or organization of the Government of Ontario.

A4.4 Interest Bearing Account. If the Province provides Funds before the Recipient’s immediate need for the Funds, the Recipient will place the Funds in

an interest bearing account in the name of the Recipient at a Canadian financial institution.

A4.5 **Interest.** If the Recipient earns any interest on the Funds, the Province may:

(a) deduct an amount equal to the interest from any further instalments of Funds;
or

(b) demand from the Recipient the payment of an amount equal to the interest.

A4.6 **Rebates, Credits, and Refunds.** The Ministry will calculate Funds based on the actual costs to the Recipient to carry out the Project, less any costs (including taxes) for which the Recipient has received, will receive, or is eligible to receive, a rebate, credit, or refund.

A5.0 **RECIPIENT'S ACQUISITION OF GOODS OR SERVICES, AND DISPOSAL OF ASSETS**

A5.1 **Acquisition.** If the Recipient acquires goods, services, or both with the Funds, it will:

(a) do so through a process that promotes the best value for money; and

(b) comply with the *Broader Public Sector Accountability Act, 2010* (Ontario), including any procurement directive issued thereunder, to the extent applicable.

A5.2 **Disposal.** The Recipient will not, without the Province's prior written consent, sell, lease, or otherwise dispose of any asset purchased or created with the Funds or for which Funds were provided, the cost of which exceeded the amount as provided for in Schedule "B" at the time of purchase.

A6.0 **CONFLICT OF INTEREST**

A6.1 **No Conflict of Interest.** The Recipient will carry out the Project and use the Funds without an actual, potential, or perceived conflict of interest.

A6.2 **Conflict of Interest Includes.** For the purposes of Article A6.0, a conflict of interest includes any circumstances where:

(a) the Recipient; or

(b) any person who has the capacity to influence the Recipient's decisions,

has outside commitments, relationships, or financial interests that could, or could be seen to, interfere with the Recipient's objective, unbiased, and impartial judgment relating to the Project, the use of the Funds, or both.

A6.3 Disclosure to Province. The Recipient will:

- (a) disclose to the Province, without delay, any situation that a reasonable person would interpret as an actual, potential, or perceived conflict of interest; and
- (b) comply with any terms and conditions that the Province may prescribe as a result of the disclosure.

A7.0 REPORTS, ACCOUNTING, AND REVIEW

A7.1 Preparation and Submission. The Recipient will:

- (a) submit to the Province at the address referred to in section A17.1, all Reports in accordance with the timelines and content requirements as provided for in Schedule "F", or in a form as specified by the Province from time to time;
- (b) submit to the Province at the address referred to in section A17.1, any other reports as may be requested by the Province in accordance with the timelines and content requirements specified by the Province;
- (c) ensure that all Reports and other reports are completed to the satisfaction of the Province; and
- (d) ensure that all Reports and other reports are signed on behalf of the Recipient by an authorized signing officer.

A7.2 Record Maintenance. The Recipient will keep and maintain:

- (a) all financial records (including invoices) relating to the Funds or otherwise to the Project in a manner consistent with generally accepted accounting principles; and
- (b) all non-financial documents and records relating to the Funds or otherwise to the Project.

A7.3 Inspection. The Province, any authorized representative, or any independent auditor identified by the Province may, at the Province's expense, upon twenty-four hours' Notice to the Recipient and during normal business hours, enter upon the Recipient's premises to review the progress of the Project and the Recipient's allocation and expenditure of the Funds and, for these purposes, the Province, any authorized representative, or any independent auditor identified by the Province may take one or more of the following actions:

- (a) inspect and copy the records and documents referred to in section A7.2;
- (b) remove any copies made pursuant to section A7.3(a) from the Recipient's premises; and

- (c) conduct an audit or investigation of the Recipient in respect of the expenditure of the Funds, the Project, or both.

A7.4 **Disclosure.** To assist in respect of the rights provided for in section A7.3, the Recipient will disclose any information requested by the Province, any authorized representatives, or any independent auditor identified by the Province, and will do so in the form requested by the Province, any authorized representative, or any independent auditor identified by the Province, as the case may be.

A7.5 **No Control of Records.** No provision of the Agreement will be construed so as to give the Province any control whatsoever over the Recipient's records.

A7.6 **Auditor General.** The Province's rights under Article A7.0 are in addition to any rights provided to the Auditor General pursuant to section 9.1 of the *Auditor General Act* (Ontario).

A8.0 COMMUNICATIONS REQUIREMENTS

A8.1 **Acknowledge Support.** Unless otherwise directed by the Province, the Recipient will:

- (a) acknowledge the support of the Province for the Project; and
- (b) ensure that the acknowledgement referred to in section A8.1(a) is in a form and manner as directed by the Province.

A8.2 **Publication.** The Recipient will indicate, in any of its Project-related publications, whether written, oral, or visual, that the views expressed in the publication are the views of the Recipient and do not necessarily reflect those of the Province.

A9.0 INDEMNITY

A9.1 **Indemnification.** The Recipient will indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages, and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits, or other proceedings, by whomever made, sustained, incurred, brought, or prosecuted, in any way arising out of or in connection with the Project or otherwise in connection with the Agreement, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

A10.0 INSURANCE

A10.1 **Recipient's Insurance.** The Recipient represents, warrants, and covenants that it has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary

and appropriate insurance that a prudent person carrying out a project similar to the Project would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury, and property damage, to an inclusive limit of not less than the amount provided for in Schedule "B" per occurrence. The insurance policy will include the following:

- (a) the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the Recipient's obligations under, or otherwise in connection with, the Agreement;
- (b) a cross-liability clause;
- (c) contractual liability coverage; and
- (d) a 30-day written notice of cancellation.

A10.2 Proof of Insurance. The Recipient will:

- (a) provide to the Province, either:
 - (i) certificates of insurance that confirm the insurance coverage as provided for in section A10.1; or
 - (ii) other proof that confirms the insurance coverage as provided for in section A10.1; and
- (b) upon the request of the Province, provide to the Province a copy of any insurance policy.

A11.0 TERMINATION ON NOTICE

A11.1 Termination on Notice. The Province may terminate the Agreement at any time without liability, penalty, or costs upon giving at least 30 days' Notice to the Recipient.

A11.2 Consequences of Termination on Notice by the Province. If the Province terminates the Agreement pursuant to section A11.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project, and do either or both of the following:
 - (i) permit the Recipient to offset such costs against the amount the Recipient owes pursuant to section A11.2(b); and

- (ii) subject to section A4.1(a), provide Funds to the Recipient to cover such costs.

A12.0 TERMINATION WHERE NO APPROPRIATION

A12.1 Termination Where No Appropriation. If, as provided for in section A4.2(d), the Province does not receive the necessary appropriation from the Ontario Legislature for any payment the Province is to make pursuant to the Agreement, the Province may terminate the Agreement immediately without liability, penalty, or costs by giving Notice to the Recipient.

A12.2 Consequences of Termination Where No Appropriation. If the Province terminates the Agreement pursuant to section A12.1, the Province may take one or more of the following actions:

- (a) cancel further instalments of Funds;
- (b) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient; and
- (c) determine the reasonable costs for the Recipient to wind down the Project and permit the Recipient to offset such costs against the amount owing pursuant to section A12.2(b).

A12.3 No Additional Funds. If, pursuant to section A12.2(c), the Province determines that the costs to wind down the Project exceed the Funds remaining in the possession or under the control of the Recipient, the Province will not provide additional Funds to the Recipient.

A13.0 EVENT OF DEFAULT, CORRECTIVE ACTION, AND TERMINATION FOR DEFAULT

A13.1 Events of Default. Each of the following events will constitute an Event of Default:

- (a) in the opinion of the Province, the Recipient breaches any representation, warranty, covenant, or other material term of the Agreement, including failing to do any of the following in accordance with the terms and conditions of the Agreement:
 - (i) carry out the Project;
 - (ii) use or spend Funds; or
 - (iii) provide, in accordance with section A7.1, Reports or such other reports as may have been requested pursuant to section A7.1(b);
- (b) the Recipient's operations, its financial condition, or its organizational structure, changes such that it no longer meets one or more of the

eligibility requirements of the program under which the Province provides the Funds;

- (c) the Recipient makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or a creditor makes an application for an order adjudging the Recipient bankrupt, or applies for the appointment of a receiver; or
- (d) the Recipient ceases to operate.

A13.2 Consequences of Events of Default and Corrective Action. If an Event of Default occurs, the Province may, at any time, take one or more of the following actions:

- (a) initiate any action the Province considers necessary in order to facilitate the successful continuation or completion of the Project;
- (b) provide the Recipient with an opportunity to remedy the Event of Default;
- (c) suspend the payment of Funds for such period as the Province determines appropriate;
- (d) reduce the amount of the Funds;
- (e) cancel further instalments of Funds;
- (f) demand from the Recipient the payment of any Funds remaining in the possession or under the control of the Recipient;
- (g) demand from the Recipient the payment of an amount equal to any Funds the Recipient used, but did not use in accordance with the Agreement;
- (h) demand from the Recipient the payment of an amount equal to any Funds the Province provided to the Recipient; and
- (i) terminate the Agreement at any time, including immediately, without liability, penalty or costs to the Province upon giving Notice to the Recipient.

A13.3 Opportunity to Remedy. If, in accordance with section A13.2(b), the Province provides the Recipient with an opportunity to remedy the Event of Default, the Province will give Notice to the Recipient of:

- (a) the particulars of the Event of Default; and
- (b) the Notice Period.

A13.4 Recipient not Remediating. If the Province provided the Recipient with an opportunity to remedy the Event of Default pursuant to section A13.2(b), and:

- (a) the Recipient does not remedy the Event of Default within the Notice Period;
- (b) it becomes apparent to the Province that the Recipient cannot completely remedy the Event of Default within the Notice Period; or
- (c) the Recipient is not proceeding to remedy the Event of Default in a way that is satisfactory to the Province,

the Province may extend the Notice Period, or initiate any one or more of the actions provided for in sections A13.2(a), (c), (d), (e), (f), (g), (h), and (i).

A13.5 When Termination Effective. Termination under Article will take effect as provided for in the Notice.

A14.0 FUNDS AT THE END OF A FUNDING YEAR

A14.1 Funds at the End of a Funding Year. Without limiting any rights of the Province under Article A13.0, if the Recipient has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Province may take one or both of the following actions:

- (a) demand from the Recipient payment of the unspent Funds; and
- (b) adjust the amount of any further instalments of Funds accordingly.

A15.0 FUNDS UPON EXPIRY

A15.1 Funds Upon Expiry. The Recipient will, upon expiry of the Agreement, pay to the Province any Funds remaining in its possession or under its control.

A16.0 DEBT DUE AND PAYMENT

A16.1 Payment of Overpayment. If at any time the Province provides Funds in excess of the amount to which the Recipient is entitled under the Agreement, the Province may:

- (a) deduct an amount equal to the excess Funds from any further instalments of Funds; or
- (b) demand that the Recipient pay an amount equal to the excess Funds to the Province.

A16.2 Debt Due. If, pursuant to the Agreement:

- (a) the Province demands from the Recipient the payment of any Funds or an amount equal to any Funds; or

- (b) the Recipient owes any Funds or an amount equal to any Funds to the Province, whether or not the Province has demanded their payment,

such Funds or other amount will be deemed to be a debt due and owing to the Province by the Recipient, and the Recipient will pay the amount to the Province immediately, unless the Province directs otherwise.

A16.3 **Interest Rate.** The Province may charge the Recipient interest on any money owing by the Recipient at the then current interest rate charged by the Province of Ontario on accounts receivable.

A16.4 **Payment of Money to Province.** The Recipient will pay any money owing to the Province by cheque payable to the "Ontario Minister of Finance" and delivered to the Province as provided for in Schedule "B".

A16.5 **Fails to Pay.** Without limiting the application of section 43 of the *Financial Administration Act* (Ontario), if the Recipient fails to pay any amount owing under the Agreement, Her Majesty the Queen in right of Ontario may deduct any unpaid amount from any money payable to the Recipient by Her Majesty the Queen in right of Ontario.

A17.0 NOTICE

A17.1 **Notice in Writing and Addressed.** Notice will be in writing and will be delivered by email, postage-prepaid mail, personal delivery, or fax, and will be addressed to the Province and the Recipient respectively as provided for Schedule "B", or as either Party later designates to the other by Notice.

A17.2 **Notice Given.** Notice will be deemed to have been given:

- (a) in the case of postage-prepaid mail, five Business Days after the Notice is mailed; or
- (b) in the case of email, personal delivery, or fax, one Business Day after the Notice is delivered.

A17.3 **Postal Disruption.** Despite section A17.2(a), in the event of a postal disruption:

- (a) Notice by postage-prepaid mail will not be deemed to be given; and
- (b) the Party giving Notice will give Notice by email, personal delivery, or fax.

A18.0 CONSENT BY PROVINCE AND COMPLIANCE BY RECIPIENT

A18.1 **Consent.** When the Province provides its consent pursuant to the Agreement, it may impose any terms and conditions on such consent and the Recipient will comply with such terms and conditions.

A19.0 SEVERABILITY OF PROVISIONS

A19.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of the Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed.

A20.0 WAIVER

A20.1 **Waiver Request.** Either Party may, in accordance with the Notice provision set out in Article A17.0, ask the other Party to waive an obligation under the Agreement.

A20.2 **Waiver Applies.** Any waiver a Party grants in response to a request made pursuant to section A20.1 will:

- (a) be valid only if the Party granting the waiver provides it in writing; and
- (b) apply only to the specific obligation referred to in the waiver.

A21.0 INDEPENDENT PARTIES

A21.1 **Parties Independent.** The Recipient is not an agent, joint venturer, partner, or employee of the Province, and the Recipient will not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

A22.0 ASSIGNMENT OF AGREEMENT OR FUNDS

A22.1 **No Assignment.** The Recipient will not, without the prior written consent of the Province, assign any of its rights or obligations under the Agreement.

A22.2 **Agreement Binding.** All rights and obligations contained in the Agreement will extend to and be binding on the Parties' respective heirs, executors, administrators, successors, and permitted assigns.

A23.0 GOVERNING LAW

A23.1 **Governing Law.** The Agreement and the rights, obligations, and relations of the Parties will be governed by and construed in accordance with the laws of the Province of Ontario and the applicable federal laws of Canada. Any actions or proceedings arising in connection with the Agreement will be conducted in the courts of Ontario, which will have exclusive jurisdiction over such proceedings.

A24.0 FURTHER ASSURANCES

A24.1 **Agreement into Effect.** The Recipient will provide such further assurances as the Province may request from time to time with respect to any matter to which the Agreement pertains, and will otherwise do or cause to be done all acts or things necessary to implement and carry into effect the terms and conditions of the Agreement to their full extent.

A25.0 JOINT AND SEVERAL LIABILITY

A25.1 **Joint and Several Liability.** Where the Recipient is comprised of more than one entity, all such entities will be jointly and severally liable to the Province for the fulfillment of the obligations of the Recipient under the Agreement.

A26.0 RIGHTS AND REMEDIES CUMULATIVE

A26.1 **Rights and Remedies Cumulative.** The rights and remedies of the Province under the Agreement are cumulative and are in addition to, and not in substitution for, any of its rights and remedies provided by law or in equity.

A27.0 FAILURE TO COMPLY WITH OTHER AGREEMENTS

A27.1 **Other Agreements.** If the Recipient:

- (a) has failed to comply with any term, condition, or obligation under any other agreement with Her Majesty the Queen in right of Ontario or one of Her agencies (a “**Failure**”);
- (b) has been provided with notice of such Failure in accordance with the requirements of such other agreement;
- (c) has, if applicable, failed to rectify such Failure in accordance with the requirements of such other agreement; and
- (d) such Failure is continuing,

the Province may suspend the payment of Funds for such period as the Province determines appropriate.

A28.0 SURVIVAL

A28.1 **Survival.** The following Articles and sections, and all applicable cross-referenced sections and schedules, will continue in full force and effect for a period of seven years from the date of expiry or termination of the Agreement: Article 1.0, Article 3.0, Article A1.0 and any other applicable definitions, section A2.1(a), sections A4.2(d), A4.5, section A5.2, section A7.1 (to the extent that the Recipient has not provided the Reports or other reports as may have been requested to the satisfaction of the Province), sections A7.2, A7.3, A7.4, A7.5, A7.6, Article A8.0, Article A9.0, section A11.2, sections A12.2, A12.3, sections A13.1, A13.2(d), (e), (f), (g) and (h), Article

A15.0, Article A16.0, Article A17.0, Article A19.0, section A22.2, Article A23.0, Article A25.0, Article A26.0, Article A27.0 and Article A28.0.

- END OF GENERAL TERMS AND CONDITIONS -

SCHEDULE "B"
PROJECT SPECIFIC INFORMATION AND ADDITIONAL PROVISIONS

Maximum Funds	\$2,482,300
Expiry Date	March 31 st , 2019
Amount for the purposes of section A5.2 (Disposal) of Schedule "A"	\$1,000
Insurance	\$ 2,000,000
Contact information for the purposes of Notice to the Province	<p>Position: Laura A. Pisko, Director, Health Protection Policy and Programs Branch</p> <p>Address: 393 University Avenue, Suite 2100 Toronto, ON M7A 2S1 Fax: (416) 314-7078</p> <p>Email: laura.pisko@ontario.ca</p>
Contact information for the purposes of Notice to the Recipient	<p>Position: Brian Lester, Executive Director Regional HIV/AIDS Connection</p> <p>Address: 30-186 King Street London Ontario N6A 1C7 Fax: 519-434-1843</p> <p>Email: blester@hivaidconnection.ca</p>
Contact information for the senior financial person in the Recipient organization (e.g., CFO, CAO) – to respond as required to requests from the Province related to the Agreement	<p>Position: Glenda Robillard, Director of Operations, Regional HIV/AIDS Connection</p> <p>Address: 30-186 King Street London Ontario N6A 1C7 Fax: 519-434-1843</p> <p>Email: grobillard@hivaidconnection.ca</p>

Additional Provisions:

This Agreement is contingent upon Regional HIV/AIDS Connection obtaining and maintaining an exemption from the federal Minister of Health under section 56.1 of the *Controlled Drugs and Substances Act* (CDSA) to operate supervised consumption services at both 446 York Street and 241 Simcoe Street in London, Ontario. In the event that the Regional HIV/AIDS Connection does not obtain or maintain its exemption status as specified above, the Province will not provide funding or may withdraw any funds provided to the Recipient.

Provision A17.4 is added to Article A17.0 of the Agreement:

17.4 Notice in Writing and Addressed to the Communications and Marketing Division. Despite section 17.1, Notice from the Recipient to the Province concerning matters relating to the Communications and Issues Management Protocol as set out in Schedule "C", will be in writing, and will be delivered by email, postage-prepaid mail, personal delivery, or fax and will be addressed to:

**Ministry of Health & Long-Term Care
Communications and Marketing Division
Strategic Planning and Integrated Marketing Branch
10th Floor, Hepburn Block, Toronto, ON M7A 1R3
Email : healthcommunications@ontario.ca,**

or as the Province later designates to the Recipient by Notice.

SCHEDULE "C" PROJECT

BACKGROUND

Ontario is facing growing public health concerns related to injection drug use, specifically with opioid misuse and overdose. In Ontario, there are an estimated 40,270 people who inject drugs. Opioid misuse is the fourth leading cause of accidental death in Ontario. There were 1,053 opioid-related deaths in Ontario from January to October 2017, compared with 694 during the same time period in 2016, a 52 per cent increase. From January to December 2017, there were 7,658 emergency department visits related to opioid overdoses, compared with 4,453 during the same time period in 2016, a 72 per cent increase.

In Middlesex-London specifically, opioid related deaths have increased since 2014, and there were 22 opioid-related deaths between January and October 2017. Between January and September 2017 there was a 58 percent increase in opioid-related emergency department visits compared to the same period in 2016 (from 136 to 215). In addition, HIV rates have increased in Middlesex-London since 2014; whereas, the provincial rate has decreased. In 2016 and 2017, more than 70% of people diagnosed with HIV had experience with injection drug use. Regional HIV/AIDS Connection's application to provide permanent supervised consumption services (SCS) at two locations will work to reduce opioid-related overdose and death in the city and work to prevent further transmission of blood born infections.

Compelling evidence has demonstrated that SIS/SCS are effective in:

- Reducing morbidity and mortality from drug use (e.g., overdoses, blood-borne diseases), by providing an immediate clinical response;
- Reducing risky behaviours among injection drug users (e.g. syringe sharing);
- Decreasing ambulance service call outs;
- Improving access to health care, social services, and/or addictions treatment;
- Reducing public injecting and/or public order problems (e.g., discarded needles); and
- Leading to potential cost savings in the overall health system.

Provincial funding support is contingent upon the Recipient:

- 1) Successfully obtaining and maintaining federal exemption from the federal Minister of Health under section 56.1 of the *Controlled Drugs and Substances Act* (CDSA) to operate the supervised consumption service at each site;
- 2) Meeting provincial program funding criteria; and
- 3) Abiding by ministry and program specific standards, guidelines, regulations, and best practices.

For clarity, none of the funding with respect to the Project is to be used by the Recipient for the purposes of compensation for any physician services.

TIMELINES

Activity	Timeframe for completion
Agreement signed between the Ministry and the Recipient	Spring 2018
SCS capital renovations at two sites	Spring to Summer 2018
SCS opening in two spaces	Summer to Fall 2018
Quarterly financial and program reporting	The Recipient shall prepare and submit all program and financial reports as directed by the Province in Schedule D
Annual program reporting	Annual program report due to the Ministry on or before June 30 th of the following funding year

SCOPE

This funding is intended to support the operation of two SCS by the Regional HIV/AIDS Connection at 446 York Street and 241 Simcoe Street in London, Ontario. Eligible expenses under this Agreement for the SCSs operated by Regional HIV/AIDS Connection may include, but are not limited to:

- Employee salaries and benefits;
- Office and program expenses and equipment;
- Phone system and IT expenses; and,
- Other operating expenses as approved by the ministry.

The Recipient is required to follow the provincial SCS program’s operational requirements and best practices outlined below.

SCS OPERATIONAL REQUIREMENTS:

For both SCS sites the Recipient will ensure:

- It meets all federal, provincial and municipal laws, regulations and bylaws, including, but not limited to regulations regarding building code, accessibility, health and safety, etc.;
- Staff have an ability to directly monitor clients in different areas of the SCS at all times;

- Staff have the capacity to monitor and track who is in the SCS at all times;
- The facility is adequately staffed to ensure client and staff safety and to meet operational needs;
- The following services are available on-site during all hours of operation:
 - Provision of naloxone;
 - First-aid for injection related injuries;
 - Education on harm reduction services;
 - Education on safer injection and other modes of drug use;
 - Safe disposal of used syringes and other drug use equipment/harm reduction supplies; and
 - Referrals and/or access to other harm reduction, health [e.g. primary care, addiction/mental health, treatment] and social services.
- SCS policies/procedures/protocols are outlined in detail (e.g. for infection prevention and control, safety, overdose, naloxone, etc.) and staff are trained and following policies/procedures/protocols;
 - This includes policies/procedures/protocols related to the prevention of blood-borne infection transmission; infection prevention and control; harm reduction and substance use).
- There is capacity to manage overdoses and security issues and these are clearly outlined in operational policies/procedures/protocols to staff (and volunteers if applicable);
- The facility meets ministry accessibility, EMS/First Responder, and fire service access requirements and standards;
- The model of service is culturally, demographically, and gender appropriate; and
- The terms and conditions of their Health Canada Section 56.1 exemption to the *Controlled Drugs and Substances Act* are met.

ADDITIONAL SCS DETAILS

Service Description

Once the necessary renovations at each individual site are completed, the SCS operations will open at that site. In each SCS, people will be able to people will be able to inject pre-obtained drugs, or consume pre-obtained drugs via oral or intranasal consumption. In addition, drug checking service will be offered (using fentanyl test strips) and clients will receive education about safer injection/consumption practices, overdose prevention and intervention, basic nursing care, and health and social service referrals. The area will be staffed by a nurse, peer and harm reduction worker, and will be supported by a supervisor who will also provide back-up support as necessary.

Operating hours

The supervised consumption services at each site will operate 12 hours per day seven days a week from 9am to 9pm.

Capacity

The 446 York Street site will include a minimum of six consumption booths and the 241 Simcoe Street will include a minimum of five consumption booths. Based on the 12 hours of operation for each site, and if 30-45 mins is allotted within the booth for each consumption visit, 446 York Street SCS could oversee a maximum of 672-1000 supervised injections per week and the 241 Simcoe Street SCS could oversee a maximum of 560-840 supervised injections per week.

DRUG CHECKING (BTNX RAPID RESPONSE™ FENTANYL TEST STRIP) PROGRAM

The Recipient is expected to:

- Ensure staff is aware that all clients are to be informed that drug checking services (i.e. fentanyl test strips) are available, and that fentanyl test strip protocols, should be followed. Protocols should indicate, at a minimum, that:
 - Drug checking is to be performed on-site by clients and not by site staff and/or volunteers;
 - Site staff and/or volunteers should teach/coach clients on how to use the strips and interpret the results;
 - Negative results do not mean a person's drugs are safe;
 - Any substances left behind by the individual who uses drugs are to be disposed of in accordance with SCS site-specific policies.
- If a test result is positive, feedback from the client should be sought, particularly if this was unexpected. Consider offering any or all of the following interventions:
 - Information on altering dosage or disposing of the drug;
 - Information on availability of other approved Supervised Injection Services and Overdose Prevention Sites (if applicable);
 - Provision of a take-home naloxone kit;
- Any substances left behind by the individual who uses drugs are to be disposed of in accordance with site-specific policies.
- Submit data on the drug checking pilot program as per Schedule "F" and/or as requested by the ministry.

Use of BTNX Rapid Response™ Fentanyl Test Strips:

The Recipient will be required to submit orders for BTNX Rapid Response™ Fentanyl Test Strips to the local board of health. By receiving fentanyl test strips, the Recipient acknowledges and agrees:

- The use of the test strips is entirely at your own risk. There is no representation, warranty, condition or other promise of any kind, express, implied, statutory or otherwise, given by her Majesty the Queen in Right of Ontario as represented by the Ministry of Health and Long-Term Care, including the local board of health in connection with the fentanyl test strips.

- The ministry takes no responsibility for any unauthorized use of the fentanyl test strips by you or by your clients.
- Not to assign or subcontract the distribution, supply or obligation to comply with any of these terms and conditions to any other person or organization without the prior written consent of the ministry.
- To comply with the terms and conditions as it relates to the use and administration of fentanyl test strips as specified in all applicable federal and provincial laws.
- To follow all ministry written instructions relating to the proper use, administration, training and/or distribution of fentanyl test strips.
- To immediately return any fentanyl test strips in your custody or control at the written request of the ministry at your own cost or expense.
- That the ministry does not guarantee supply of fentanyl test strips, nor that fentanyl test strips will be provided to you in a timely manner.

COMMUNICATIONS

The Recipient shall:

- (a) act as the media focus for the Project;
- (b) respond to public inquiries, complaints and concerns with respect to the Project;
- (c) report any potential or foreseeable issues to the Communications and Marketing Division of the Ministry of Health and Long-Term Care (the "CMD");
- (d) prior to issuing any news release or other planned communications, notify CMD as follows:
 - (i) News Releases – identify 5 business days prior to release;
 - (ii) Web Designs – 10 business days prior to launch;
 - (iii) Marketing Communications (eg. pamphlets and posters) - 10 business days prior to production and 20 business days prior to release;
 - (iv) Public Relations Plan for Project – 15 business days prior to launch;
 - (v) Digital Marketing Strategy – 10 business days prior to launch;
 - (vi) Final advertising creative – 10 business days to final production; and

- (vii) Recommended media buying plan – 15 business days prior to launch and any media expenditures have been undertaken.
- (e) advise CMD prior to embarking on planned public communication strategies, major provider outreach activities and the release of any publications related to the Project;
- (f) ensure that any new products, and where possible, existing products related to the Project use the Ontario Logo or other Ontario identifier in compliance with the Visual Identity Directive, September 2006; and
- (g) despite the time frames set out above for specific types of communications, all public announcements and media communications related to urgent and/or emerging Project issues shall require the Recipient to provide the CMD with notice of such announcement or communication as soon as possible prior to release.

**SCHEDULE "D"
BUDGET**

FUNDS

Funding Type	Amount	Funding Period
Maximum One-Time Operational Funding	Up to \$2,482,300	Effective from April 1, 2018 until March 31, 2019.

BUDGET

Maximum One-time Funding (detailed operational budget below)		
Program (project or activity name)	Dollars	Funding Year
1. 446 York Street SCS (Operational) Salaries and Benefits	\$915,185	FY2018-19
2. 446 York Street SCS (Operational) Supplies and Services	\$336,765	FY2018-19
3. 241 Simcoe Street SCS (Operational) Salaries and Benefits	\$915,185	FY2018-19
4. 241 Simcoe Street (Operational) Supplies and Services	\$315,165	FY2018-19
Total One-time Funding	\$2,482,300	FY2018-19

- 1) Any operating costs incurred over and above the amounts approved by the Ministry and specified in Schedule D will need prior review and approval in writing by the Province.
- 2) Any changes to the scope of the project, including reallocation of funds, require prior review and approval by the Province.

446 York Street Operating Budget				
Salaries and Benefits				
Position	# of FTES	Salary per FTE	Benefits per FTE	Total
Registered Nurse	3.6	\$75000	\$14,625	\$322,650
Peers	1	\$41000	\$7,995	\$48,995
Harm Reduction Worker	4.8	\$48000	\$9,360	\$275,328
Supervisor	1	\$79625	\$15,527	\$95,152
Support Services	1.4	\$41000	\$7,995	\$68,593
Other Nurse Relief	0.5	\$75,000	\$14,625	\$44,813
Other Harm Reduction Worker Relief	1.04	\$48000	\$9,360	\$59,654
Sub-total	11.8		Sub-total	\$915,185
Supplies and Services				
Item	Quantity (if applicable)	Cost per unit	Total Requested	
Program Expenses ¹			\$53,614	
Infection Control and Cleaning			\$18,000	
Office Supplies			\$3,000	
Communications			\$1,872	
Photocopier/mthly lease			\$5,400	
Medical Equipment			\$3,000	
Security			\$64,000	
Rent and utilities			\$66,000	
Cell Phone	2	\$467	\$934	
Phone system (start-up)			\$28,020	
Two-Way radios (start-up)	8	\$350	\$2,800	
IT install and equipment (start-up)			\$25,000	
Computers (start-up)	6	\$1,500	\$9,000	
IT Expenses @ 5%			\$14,031	
Admin @15%			\$42,094	
			Sub-total	\$336,765
¹ Disposal of biohazardous waste, medical supplies, general program supplies <u>Note:</u> IT and Admin Expenses are calculated as a percentage of total operational expenses (excluding salaries).				

241 Simcoe Street Operating Budget				
Salaries and Benefits				
Position	# of FTEs	Salary per FTE	Benefits per FTE	Total
Registered Nurse	3.6	\$75,000	\$14,625	\$322,650
Peers	1	\$41,000	\$7,995	\$48,995
Harm Reduction Worker	4.8	\$48,000	\$9,360	\$275,328
Supervisor	1	\$79,625	\$15,527	\$95,152
Support Services	1.4	\$41,000	\$7,995	\$68,593
Other Nurse Relief	0.5	\$75,000	\$14,625	\$44,813
Other Harm Reduction Worker Relief	1.04	\$48,000	\$9,360	\$59,654
Sub-total	11.8		Sub-total	\$915,185
Supplies and Services				
Item	Quantity (if applicable)	Cost per unit	Total Requested	
Program Expenses ¹				\$53,614
Infection Control and Cleaning				\$18,000
Office Supplies				\$3,000
Communications				\$1,872
Photocopier/mthly lease				\$5,400
Medical Equipment				\$3,000
Security				\$64,000
Rent and utilities				\$48,000
Cell Phone (start-up)	2	\$467		\$934
Two-Way radios (start-up)	8	\$350		\$2,800
Phone system (start-up)				\$28,020
Computers (start-up)	6	\$1,500		\$9,000
IT install and equipment (start-up)				\$25,000
IT Expenses @ 5%				\$13,131
Admin @15%				\$39,394
			Sub-total	\$315,165
¹ Disposal of biohazardous waste, medical supplies, general program supplies <u>Note:</u> IT and Admin Expenses are calculated as a percentage of total operational expenses (excluding salaries).				

SCHEDULE "E"
PAYMENT PLAN

The Province shall provide the Funds in instalments as it determines.

	PAYMENT DATE	AMOUNT (\$)
2018-19	Pay \$103,429 semi-monthly on the 15 th and 30 th of each month, starting from April 1 st 2018 to March 30 th 2019. Cash flow may be adjusted to reflect forecasted spending.	Up to \$2,482,300

Note: Final payment amount for each funding period to be rounded up, as required, to amount to total approved funding.

SCHEDULE "F" REPORTS

Definitions

For the purposes of this Schedule, the following words shall have the following meanings:

“**Quarter**” means either Q1, Q2, Q3, or Q4.

“**Q1**” means the period commencing on April 1st and ending on the following June 30th.

“**Q2**” means the period commencing on July 1st and ending on the following September 30th.

“**Q3**” means the period commencing on October 1st and ending on the following December 31st.

“**Q4**” means the period commencing on January 1st and ending on the following March 31st.

1.1 Name of Report	1.2 Reporting Period	1.3 Due Date
1. Financial Reports for the 2018-19 fiscal year	Q1 (if there is a Q1 within the first Funding Year)	July 31 st , or a date as determined by the Province
	Q2 (if there is a Q2 within the first Funding Year)	October 31 st , or a date as determined by the Province
	Q3 (if there is a Q3 within the first Funding Year)	January 31 st , or a date as determined by the Province
	Q4	April 30 th of the following Funding Year
2. Program Reports for the 2018-19 fiscal year	Q1	July 31 st , or a date as determined by the Province
	Q2	October 31 st , or a date as determined by the Province
	Q3	January 31 st , or a date as determined by the Province
	Q4	April 30 th of the following Funding Year

1.1 Name of Report	1.2 Reporting Period	1.3 Due Date
3. Annual Reconciliation Report for the 2018-19 fiscal year	For the entire Funding Year	June 30 th of the following Funding Year
4. Audited Financial Statement for the 2018-19 fiscal year	For the entire Funding Year	June 30 th of the following Funding Year
5. Annual Program Report for the 2018-19 fiscal year	For the entire Funding Year	June 30 th of the following Funding Year

Report Details

1A. and 1B.

Financial Reports

The Recipient shall prepare and submit all financial reports as directed by the Province. These financial reports contains actual expenditures broken down by the categories and items as indicated in the Schedule D, at the end of each quarter of the funding year/period, and a forecast of program expenditures broken down by the categories and items as indicated in the Schedule D, for the remaining quarter(s). The purpose of this report is to track program allocations across permissible expenditure categories, to flag large expenditures that are planned for the remaining quarter(s), and identify any funds which will be un-spent by the end of the funding period/year. The report shall be signed by authorized signing officers of the organization.

2. Program Reports

The Recipient shall submit the quarterly program reports using a reporting system as defined and directed by the Province.

Quarterly program reporting indicators may include, but are not limited to:

1. General

of unique clients

of client visits (consumption)

of clients by time of day (i.e., morning, afternoon, evening)

2. Critical Incidents

of overdoses in the SCS injection area

- # of overdoses requiring treatment with oxygen and/or rescue breathing
- # of overdoses reversed with naloxone administration

- # of doses of naloxone administered
- # of overdoses in the facility (outside of the SCS injection area)
- # of calls to EMS/paramedic services related to an overdose
- # of deaths occurring in the facility¹

3. Referrals for services and reasons for referral

- # of clients treated in the SCS for injection-related complications (e.g. abscesses)
- # medical/clinical referrals
- # social referrals (e.g., social services, counselling services)
- # detox/treatment
- # other

4. Drugs used by clients in the SCS (self-reported)

5. Non-identifiable client demographics (e.g. client gender, age, housing status)

6. Drug checking services (if offered)

- As per template provided by the Province

3. Annual Reconciliation Report

The Recipient shall:

- (a) prepare the annual reconciliation report using a reporting system as directed by the Province; and
- (b) include details as directed by the Province.

4. Audited Financial Statement

The Recipient shall prepare the audited financial statement in accordance with Canadian generally accepted accounting principles, and attested to by a licensed public accountant.

5. Annual Program Report

The Recipient shall:

- (a) provide an annual program report which shows whether and how the Recipient completed the Program, including any details requested by the Province; and
- (b) ensure that the final program report is signed on behalf of the Recipient by such number of signing officers as the Province may require.

Annual program reporting indicators may include the indicators outlined in the quarterly program reporting requirements, in addition to:

¹ If a death occurs, the Ministry (see Ministry contact on page 20) requires immediate notification.

- A description of activities over the year (health interventions, service provision, lessons learned, trends, new/emerging substances);
- An analysis of the operational performance (how the SCS performed with respect to the outputs and/or outcomes set out in the agreement);
- Any achievements, which your organization would like to highlight related to the service delivery.