

This Agreement is made the _____ day of _____, 20__

ORGANIZATION AGREEMENT FOR PHARMANET USE

This Organization Agreement for PharmaNet Use (the “Agreement”) is executed as of the date first written above, by _____ (“Organization”) for the benefit of HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Health (the “Province”).

WHEREAS:

- A. The Province owns and is responsible for the operation of PharmaNet, the province-wide network that links pharmacies to a central data system. Every prescription dispensed in community pharmacies in British Columbia is entered into PharmaNet.
- B. PharmaNet contains highly sensitive confidential information, including personal information, and it is in the public interest to ensure that appropriate measures are in place to protect the confidentiality and integrity of such information. All access to and use of PharmaNet and PharmaNet Data is subject to the Act and other applicable law.
- C. The Province permits Authorized Users to access PharmaNet to provide health services to, or to facilitate the care of, the individual whose personal information is being accessed.
- D. This Agreement sets out the terms by which Organization may permit Authorized Users to access PharmaNet at the Site(s) operated by Organization.

NOW THEREFORE Organization makes this Agreement knowing that the Province will rely on it in permitting access to and use of PharmaNet from Sites operated by Organization. Organization conclusively acknowledges that reliance by the Province on this Agreement is in every respect justifiable and that it received fair and valuable consideration for this Agreement, the receipt and adequacy of which is hereby acknowledged. Organization hereby agrees as follows:

ARTICLE 1 – INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires, the following definitions will apply:

- (a) “**Act**” means the *Pharmaceutical Services Act*;
- (b) “**Approved SSO**” means, in relation to a Site, the software support organization identified in section 1 of the Site Request that provides Organization with the SSO-Provided Technology used at the Site;

- (c) “**Associated Technology**” means, in relation to a Site, any information technology hardware, software or services used at the Site, other than the SSO-Provided Technology, that is in any way used in connection with Site Access or any PharmaNet Data;
- (d) “**Authorized User**” means an individual who is granted access to PharmaNet by the Province and who is:
 - (i) an employee or independent contractor of Organization, or
 - (ii) if Organization is an individual, the Organization;
- (e) “**Information Management Regulation**” means the *Information Management Regulation*, B.C. Reg. 74/2015;
- (f) “**On-Behalf-Of User**” means an Authorized User described in subsection 4 (5) of the *Information Management Regulation* who acts on behalf of a Regulated User when accessing PharmaNet;
- (g) “**PharmaNet**” means PharmaNet as continued under section 2 of the *Information Management Regulation*;
- (h) “**PharmaNet Data**” includes any records or information contained in PharmaNet and any records or information in the custody, control or possession of Organization or any Authorized User as the result of any Site Access;
- (i) “**Regulated User**” means an Authorized User described in subsections 4 (2) to (4) of the *Information Management Regulation*;
- (j) “**Signing Authority**” means the individual identified by Organization as the “Signing Authority” for a Site, with the associated contact information, as set out in section 2 of the Site Request;
- (k) “**Site**” means a premises operated by Organization and located in British Columbia that:
 - (i) is the subject of a Site Request submitted to the Province, and
 - (ii) has been approved for Site Access by the Province in writing

For greater certainty, “Site” does not include a location from which remote access to PharmaNet takes place;

- (l) “**Site Access**” means any access to or use of PharmaNet at a Site or remotely as permitted by the Province;
 - (m) “**Site Request**” means, in relation to a Site, the information contained in the “PharmaNet access request form submitted to the Province by the Organization, requesting PharmaNet access at the Site, as such information is updated by the Organization from time to time in accordance with section 2.2;
 - (n) “**SSO-Provided Technology**” means any information technology hardware, software or services provided to Organization by an Approved SSO for the purpose of Site Access;
- 1.2** Unless otherwise specified, a reference to a statute or regulation by name means a statute or regulation of British Columbia of that name, as amended or replaced from time to time, and includes any enactments made under the authority of that statute or regulation.
- 1.3** The following are the Schedules attached to and incorporated into this Agreement:
- Schedule A – Specific Privacy and Security Measures
- 1.4** The main body of this Agreement, the Schedules, and any documents incorporated by reference into this Agreement are to be interpreted so that all of the provisions are given as full effect as possible. In the event of a conflict, unless expressly stated to the contrary the main body of the Agreement will prevail over the Schedules, which will prevail over any document incorporated by reference.

ARTICLE 2 – REPRESENTATIONS AND WARRANTIES

- 2.1** Organization represents and warrants to the Province, as of the date of this Agreement and throughout its term, that:
- (a) the information contained in the Site Request for each Site is true and correct;
 - (b) if Organization is not an individual:
 - (i) Organization has the power and capacity to enter into this Agreement and to comply with its terms;
 - (ii) all necessary corporate or other proceedings have been taken to authorize the execution and delivery of this Agreement by, or on behalf of, Organization; and
 - (iii) this Agreement has been legally and properly executed by, or on behalf of, the Organization and is legally binding upon and enforceable against Organization in accordance with its terms.

- 2.2** Organization must immediately notify the Province of any change to the information contained in a Site Request, including any change to a Site's status, location, normal operating hours, Approved SSO, or the name and contact information of the Signing Authority or any of the other specific roles set out in the Site Request. Such notices must be submitted to the Province in the form and manner directed by the Province in its published instructions regarding the submission of updated Site Request information, as such instructions may be updated from time to time by the Province.

ARTICLE 3 – SITE ACCESS REQUIREMENTS

- 3.1** Organization must comply with the Act and all applicable law.
- 3.2** Organization must submit a Site Request to the Province for each physical location where it intends to provide Site Access, and must only provide Site Access from Sites approved in writing by the Province. For greater certainty, a Site Request is not required for each physical location from which remote access, as permitted under section 3.6, may occur, but Organization must provide, with the Site Request, a list of the locations from which remote access may occur, and ensure this list remains current for the term of this agreement.
- 3.3** Organization must only provide Site Access using SSO-Provided Technology. For the purposes of remote access, Organization must ensure that technology used meets the requirements of Schedule A.
- 3.4** Unless otherwise authorized by the Province in writing, Organization must at all times use the secure network or security technology that the Province certifies or makes available to Organization for the purpose of Site Access. The use of any such network or technology by Organization may be subject to terms and conditions of use, including acceptable use policies, established by the Province and communicated to Organization from time to time in writing.
- 3.5** Organization must only make Site Access available to the following individuals:
- (a) Authorized Users when they are physically located at a Site, and, in the case of an On-Behalf-of-User accessing personal information of a patient on behalf of a Regulated User, only if the Regulated User will be delivering care to that patient at the same Site at which the access to personal information occurs;
 - (b) Representatives of an Approved SSO for technical support purposes, in accordance with section 6 of the *Information Management Regulation*.
- 3.6** Despite section 3.5(a), Organization may make Site Access available to Regulated Users who are physically located in British Columbia and remotely connected to a Site using a VPN or other remote access technology specifically approved by the Province in writing for the Site.

3.7 Organization must ensure that Authorized Users with Site Access:

- (a) only access PharmaNet to the extent necessary to provide health services to, or facilitate the care of, the individual whose personal information is being accessed;
- (b) first complete any mandatory training program(s) that the Site's Approved SSO or the Province makes available in relation to PharmaNet;
- (c) access PharmaNet using their own separate login identifications and credentials, and do not share or have multiple use of any such login identifications and credentials;
- (d) secure all devices, codes and credentials that enable access to PharmaNet against unauthorized use; and
- (e) in the case of remote access, comply with the policies of the Province relating to remote access to PharmaNet.

3.8 If notified by the Province that an Authorized User's access to PharmaNet has been suspended or revoked, Organization will immediately take any local measures necessary to remove the Authorized User's Site Access. Organization will only restore Site Access to a previously suspended or revoked Authorized User upon the Province's specific written direction.

3.9 For the purposes of this section:

- (a) **"Responsible User"** means, in relation to any PharmaNet Data, the Regulated User by whom, or on whose behalf, that data was obtained from PharmaNet; and
- (b) **"Use"** includes to collect, access, retain, use, de-identify, and disclose.

The PharmaNet Data disclosed under this Agreement is disclosed by the Province solely for the Use of the Responsible User to whom it is disclosed.

Organization must not Use any PharmaNet Data, or permit any third party to Use PharmaNet Data, unless the Responsible User has authorized such Use and it is otherwise permitted under the Act, applicable law, and the limits and conditions imposed by the Province on the Responsible User.

3.10 Organization must make all reasonable arrangements to protect PharmaNet Data against such risks as unauthorized access, collection, use, modification, retention, disclosure or disposal, including by:

- (a) taking all reasonable physical, technical and operational measures necessary to ensure Site Access operates in accordance with sections 3.1 to 3.9 above, and
- (b) complying with the requirements of Schedule A.

ARTICLE 4 – NON-COMPLIANCE AND INVESTIGATIONS

- 4.1** Organization must promptly notify the Province, and provide particulars, if Organization does not comply, or anticipates that it will be unable to comply, with the terms of this Agreement, or if Organization has knowledge of any circumstances, incidents or events which have or may jeopardize the security, confidentiality or integrity of PharmaNet, including any attempt by any person to gain unauthorized access to PharmaNet or the networks or equipment used to connect to PharmaNet or convey PharmaNet Data.
- 4.2** Organization must immediately investigate any suspected breaches of this Agreement and take all reasonable steps to prevent recurrences of any such breaches.
- 4.3** Organization must cooperate with any audits or investigations conducted by the Province (including any independent auditor appointed by the Province) regarding compliance with this Agreement, including by providing access upon request to a Site and any associated facilities, networks, equipment, systems, books, records and personnel for the purposes of such audit or investigation.

ARTICLE 5 – SITE TERMINATION

- 5.1** The Province may terminate all Site Access at a Site immediately, upon notice to the Signing Authority for the Site, if:
 - (a) the Approved SSO for the Site is no longer approved by the Province to provide information technology hardware, software, or service in connection with PharmaNet, or
 - (b) the Province determines that the SSO-Provided Technology or Associated Technology in use at the Site, or any component thereof, is obsolete, unsupported, or otherwise poses an unacceptable security risk to PharmaNet,and the Organization is unable or unwilling to remedy the problem within a timeframe acceptable to the Province.
- 5.2** As a security precaution, the Province may suspend Site Access at a Site after a period of inactivity. If Site Access at a Site remains inactive for a period of 90 days or more, the Province may, immediately upon notice to the Signing Authority for the Site, terminate all further Site Access at the Site.
- 5.3** Organization must prevent all further Site Access at a Site immediately upon the Province's termination, in accordance with this Article 5, of Site Access at the Site.

ARTICLE 6 – TERM AND TERMINATION

- 6.1 The term of this Agreement begins on the date first noted above and continues until it is terminated in accordance with this Article 6.
- 6.2 Organization may terminate this Agreement at any time on notice to the Province.
- 6.3 The Province may terminate this Agreement immediately upon notice to Organization if Organization fails to comply with any provision of this Agreement.
- 6.4 The Province may terminate this Agreement immediately upon notice to Organization in the event Organization no longer operates any Sites where Site Access is permitted.
- 6.5 The Province may terminate this Agreement for any reason upon two (2) months advance notice to Organization.
- 6.6 Organization must prevent any further Site Access immediately upon termination of this Agreement.

ARTICLE 7 – DISCLAIMER AND INDEMNITY

- 7.1 The PharmaNet access and PharmaNet Data provided under this Agreement are provided “as is” without warranty of any kind, whether express or implied. All implied warranties, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, and non-infringement, are hereby expressly disclaimed. The Province does not warrant the accuracy, completeness or reliability of the PharmaNet Data or the availability of PharmaNet, or that access to or the operation of PharmaNet will function without error, failure or interruption.
- 7.2 Under no circumstances will the Province be liable to any person or business entity for any direct, indirect, special, incidental, consequential, or other damages based on any use of PharmaNet or the PharmaNet Data, including without limitation any lost profits, business interruption, or loss of programs or information, even if the Province has been specifically advised of the possibility of such damages.
- 7.3 Organization must indemnify and save harmless the Province, and the Province’s employees and agents (each an “**Indemnified Person**”) from any losses, claims, damages, actions, causes of action, costs and expenses that an Indemnified Person may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur directly or indirectly by reason of any act or omission by Organization, or by any Authorized User at the Site, in connection with this Agreement.

ARTICLE 8 – GENERAL

- 8.1 Notice.** Except where this Agreement expressly provides for another method of delivery, any notice to be given to the Province must be in writing and emailed or mailed to:

Director, Information and PharmaNet Innovation
Ministry of Health
PO Box 9652, STN PROV GOVT
Victoria, BC V8W 9P4

Email: PRIMESupport@gov.bc.ca

Any notice to be given to a Signing Authority or the Organization will be in writing and emailed, mailed, faxed or text messaged to the Signing Authority (in the case of notice to a Signing Authority) or all Signing Authorities (in the case of notice to the Organization). A Signing Authority may be required to click a URL link or to log in to the Province's "PRIME" system to receive the content of any such notice.

Any written notice from a party, if sent electronically, will be deemed to have been received 24 hours after the time the notice was sent, or, if sent by mail, will be deemed to have been received 3 days (excluding Saturdays, Sundays and statutory holidays) after the date the notice was sent.

- 8.2 Waiver.** The failure of the Province at any time to insist on performance of any provision of this Agreement by Organization is not a waiver of its right subsequently to insist on performance of that or any other provision of this Agreement. A waiver of any provision or breach of this Agreement is effective only if it is in writing and signed by, or on behalf of, the waiving party.
- 8.3 Modification.** No modification to this Agreement is effective unless it is in writing and signed by, or on behalf of, the parties.

Notwithstanding the foregoing, the Province may amend this Agreement, including the Schedules and this section, at any time in its sole discretion, by written notice to Organization, in which case the amendment will become effective upon the later of: (i) the date notice of the amendment is delivered to Organization; and (ii) the effective date of the amendment specified by the Province. The Province will make reasonable efforts to provide at least thirty (30) days advance notice of any such amendment, subject to any determination by the Province that a shorter notice period is necessary due to changes in the Act, applicable law or applicable policies of the Province, or is necessary to maintain privacy and security in relation to PharmaNet or PharmaNet Data.

If Organization does not agree with any amendment for which notice has been provided by the Province in accordance with this section, Organization must promptly (and in any event prior to the effective date) cease Site Access at all Sites and take the steps necessary to terminate this Agreement in accordance with Article 6.

8.4 Governing Law. This Agreement will be governed by and will be construed and interpreted in accordance with the laws of British Columbia and the laws of Canada applicable therein.

IN WITNESS WHEREOF Organization has caused this Agreement to be executed and delivered by its duly authorized representative, as of the date first written above.

SIGNED AND DELIVERED by)

_____)

ORGANIZATION)

in the presence of:)

)

)

)

_____)

(Witness)

ORGANIZATION

SCHEDULE A – SPECIFIC PRIVACY AND SECURITY MEASURES

Organization must, in relation to each Site and in relation to Remote Access:

- (a) secure all workstations and printers at the Site to prevent any viewing of PharmaNet Data by persons other than Authorized Users;
- (b) implement all privacy and security measures specified in the following documents published by the Province, as amended from time to time:
 - (i) the PharmaNet Professional and Software Conformance Standards (<https://www2.gov.bc.ca/gov/content/health/practitioner-professional-resources/software/conformance-standards>);
 - (ii) Office of the Chief Information Officer: “Submission for Technical Security Standard and High Level Architecture for Wireless Local Area Network Connectivity” (<https://www2.gov.bc.ca/gov/content/health/practitioner-professional-resources/system-access/requirements-for-wireless-access-to-pharmanet>);
 - (iii) Policy for Access to PharmaNet Applications via Virtual Private Network (<https://www2.gov.bc.ca/gov/content/health/practitioner-professional-resources/software/conformance-standards>).
- (c) ensure that a qualified technical support person is engaged to provide security support for the Site. This person should be familiar with the Site’s network configurations, hardware and software, including all SSO-Provided Technology and Associated Technology, and should be capable of understanding and adhering to the standards set forth in this Agreement and Schedule. Note that any such qualified technical support person must not be permitted by Organization to access or use PharmaNet in any manner, unless otherwise permitted under this Agreement;
- (d) establish and maintain documented privacy policies that detail how Organization will meet its privacy obligations in relation to the Site;
- (e) establish breach reporting and response processes in relation to the Site;
- (f) detail expectations for privacy protection in contracts and service agreements as applicable at the Site;
- (g) regularly review the administrative, physical and technological safeguards at the Site;
- (h) establish and maintain a program for monitoring PharmaNet use at the Site, including by making appropriate monitoring and reporting mechanisms available to Authorized Users for this purpose.