

PARTICIPATING AGENCY AGREEMENT
ON-CALL DEVELOPMENTAL SERVICES STAFFING POOL PROGRAM BETWEEN:
COMMUNITY LIVING TORONTO (“CLTO”)

and

Aptus Treatment Centre, L'Arche, Bellwoods, Salvation Army Broadview Village, Kerry's Place, Lumenus, Mary Centre, Montage, Participation House, Reena, Safehaven, Springboard, Surex and Vita

WHEREAS

- A. The developmental services (“DS”) sector is currently experiencing the risk of significant staffing shortage due to the impact of the COVID-19 pandemic and DS agencies in the sector anticipate this risk being exacerbated over the course of the next four to eight weeks due to the Omicron Variant;
- B. On behalf of the sector, CLTO has agreed to engage with temporary staffing agencies (“**Staffing Firms**”) to create a pool of on-call temporary staffing agency workers available for deployment to DS agencies who find themselves in staffing crisis due to the outbreak of COVID-19 in their workplaces (referred to as the “**Program**”).
- C. The Participating Agency would like to participate in and benefit from the Program.
- D. CLTO and the Participating Agency wish to agree on the terms of participation in the Program.

NOW THEREFORE, CLTO and the Participating Agency agree to the terms and conditions set forth in this in this memorandum of agreement (the “**Agreement**”).

- 1. **DEFINITIONS.** For the purposes of this Agreement, the following terms have the definitions indicated:
 - 1.1. “**Designated Personnel**” means employees of Staffing Firms designated to be held on-call exclusively for the benefit of and deployment through the Program.
 - 1.2. “**Retainer Fee**” means the Fee payable by CLTO to the Staffing Firm in relation to holding Designated Personnel on-call.
 - 1.3. “**Service Fees**” means the Fees payable the Participating Agency to staffing firms from which they receive the deployment of Designated Personnel.
 - 1.4. “**Term**” means the period between January 7 to February 7, or such other period as may be agreed in writing between the Parties from time to time.
 - 1.5. “**Standard Terms of Engagement**” means the general terms on which any Participating Agency agrees to accept deployment of Designated Personnel from all Staffing Firms attached at **Exhibit A**. Any such Standard Terms of Engagement are exclusively between the Participating Agency and any of the Staffing Firms and CLTO is not party to and shall have no responsibility for any of the obligations or rights of any party to such Standard Terms of Engagement.
 - 1.6. “**Firm Terms**” means the specific terms applicable to individual Staffing Firms participating in the Program as summarized at **Exhibit B**. The Firm Terms augment the Standard Terms of Engagement applicable to the deployment of any Designated Personnel to the Participating Agency when accepting deployment from a Staffing Firm through the Program. CLTO is not party

to and shall have no responsibility for any of the obligations or rights of any party to such Standard Terms of Engagement or the Firm Terms.

2. No Partnership Relationship

This Agreement is not intended to form, and shall not be interpreted as forming, an agency relationship, a joint venture or a legal partnership between the parties defined by the *Partnership Act*, (R.S.O. 1990, c. P. 5) and relevant jurisprudence of the courts of Ontario and Canada. The Parties agree that the Agreement shall not be interpreted as resulting in joint and several liability to or as against third parties.

3. On-Call Pool Program and Deployment Procedure

3.1. **On-call.** The Staffing Firms will hold Designated Personnel on-call for the benefit of and deployment to Participating Agencies. CLTO will contract with the Staffing Firms to require as follows:

3.1.1. Each Designated Personnel shall be on-call twenty-four (24) hours per day seven (7) days per week.

3.1.2. The Designated Personnel shall be required to remain available to be deployed at all times while on-call except and unless deployed to a Participating Agency pursuant to this Agreement.

3.1.3. The Designated Personnel shall not engage in any other work or employment, whether as a self-employed person, on behalf of the Staffing Firm or on behalf of any other employer while on-call.

3.2. **Request for Deployment (RFD).** The Participating Agency will be entitled to make a request for deployment (RFD) to all participating Staffing Firms via e-mail at the e-mail addresses identified in Exhibit B using the **RFD Form (Exhibit C)** copying CLTO at StaffingPool@cltoronto.ca.

3.3. **Offer of Deployment (OOD).** CLTO has contracted with the Staffing Firm to require that they will respond to all RFDs with an OOD as soon as possible, but not later than:

3.3.1. **RFDs sent between 6 a.m. and 8 p.m.** - 30 minutes after each RFD is sent; and

3.3.2. **RFDs sent between 8 p.m. and 6 a.m.** - 3 hours after each RFD is sent.

In the OODs the Staffing Firms will specify if they have any Designated Personnel available that meet the requirements of the RFD and the Placement Criteria set out in **Exhibit A**. The OODs will be made to the Participating Agency via the e-mail indicated in the RFD using the **OOD Form (Exhibit D)** copying CLTO at StaffingPool@cltoronto.ca. **Note:** The Staffing Firms will not make an OOD to any other agency participating in the Program or otherwise assign the Designated Personnel in a manner that would prevent the Staffing Firm from fulfilling the OOD for the period of 1 hour after sending the OOD.

3.4. **Acceptance of OOD.** The Participating Agency will have 1 hour during which to accept an OOD and provide Notice of Acceptance to the Staffing Firm in question using the wording in **Exhibit E** copying CLTO at StaffingPool@cltoronto.ca. If the acceptance of the OOD is not provided to the Staffing Firm during that 1-hour period, the Staffing Firm will be entitled to deploy the Designated Personnel elsewhere.

- 3.5. **Deployment of Designated Personnel.** Once an OOD is accepted, the Staffing Firm in question will ensure deployment of Designated Staff in accordance with the OOD and the Notice of Acceptance and in accordance with any directives pertaining to work deployment issued by Toronto Public Health and other Public Health authorities with whom the Participating Agency interfaces. Note: Staffing Firms will be updated on changing requirements by CLTO or other designated person.
- 3.6. **Failed Deployment.** In the event that a Staffing Firm deploys a Designated Personnel who does not meet the Placement Criteria and the requirements of the OOD (ex. refuses to work in an outbreak setting, tests positive on arrival, fails screening, is unvaccinated etc.) the Staffing Firm will immediately deploy an alternative Designated Personnel that meets the Placement Criteria and the OOD. In the event that a pattern of failed deployment emerges, CLTO will consider whether this constitutes grounds for removing the Staffing Firm in question from the Program. No Retainer Fee or Service Fees shall be payable in respect of the failed deployment of a Designated Personnel.
- 3.7. **No Responsibility.** CLTO does not and cannot represent, warrant or guarantee that the Staffing Firms or any Designated Personnel will comply with any obligations or responsibilities or the procedural requirements set out herein or at all and CLTO will not be responsible or liable under any circumstances for any failure to comply by any person, entity or party.

4. **Role, Responsibilities and Disclaimers of CLTO**

- 4.1. CLTO shall provide the Staffing Firms with confirmation that the Participating Agency is part of the Program and entitled to request deployment of the Designated Personnel in accordance with the Deployment Procedure set out in Article 3 above.
- 4.2. CLTO shall provide the Participating Agency with access to the Deployment Procedure and contact information to enable the Participating Agency to make RFDs.
- 4.3. CLTO shall ensure payment of the Retainer Fees to Staffing Firms participating in the Program.
- 4.4. CLTO shall ensure that all Staffing Firms are aware of the Standard Terms of Engagement set out in **Exhibit A**.
- 4.5. In the event that the Participating Agency believes that any Staffing Firm is not acting in compliance with the deployment procedure or has not complied with the Standard Terms of Engagement or any Firm Terms, and the Participating agency notifies CLTO of same, CLTO shall contact the Staffing Firm to communicate the concerns in question.
- 4.6. CLTO is not and shall not be a party to any Standard Terms of Engagement or other contract entered into between the Participating Agency and any Staffing Firm. Under no circumstances shall CLTO be responsible to the Participating Agency or any Staffing Firm for their respective rights or obligations under any such Standard Terms of Engagement or to the Participating Agency in respect of the actions or omissions of any of the Staffing Firms or their Designated Personnel. Nor does CLTO represent or warrant the fitness or appropriateness of the Standard Terms of Engagement and all parties enter into any such Standard Terms of Engagement at their own risk.
- 4.7. Nothing herein constitutes a guarantee, representation or warranty by CLTO that Staffing Firms will have Designated Personnel available or that such Staffing Firms or their Designated Personnel can or will meet the particular needs of the Participating Agency. The Participating

Agency shall engage with any Staffing Firm and accept deployment of Designated Personnel at their own risk, subject only to any contractual agreements directly as between any Staffing Firm and the Participating Agency. CLTO shall not be, and nothing herein constitutes CLTO as, a party to any such agreement between any Staffing Firm and the Participating Agency.

- 4.8. Nothing in this Agreement shall create any responsibility, obligation or liability to the Participating Agency from or by CLTO except as identified in this Article 4.

5. Role & Responsibilities of Participating Agency

- 5.1. The Participating Agency shall access the Program and the Deployment Procedure only to address staffing crises associated with outbreaks or suspected outbreaks of COVID-19 in one or more of its workplaces. Nothing herein shall prevent the Participating Agency from contracting directly with any Staffing Firm for private retainer relationships or temporary staffing support separate and apart from the Program.
- 5.2. The Participating Agency shall be responsible for making RFDs in accordance with the Deployment Procedure for the deployment of Designated Personnel for shifts of a minimum duration of eight (8) hours;
- 5.3. If it chooses to access the Program and accept an OOD from a Staffing Firm from time to time, the Participating Agency will contract directly with such Staffing Firm for the deployment of Designated Personnel, subject to the Standard Terms of Engagement and Firm Terms at **Exhibits A and B**.
- 5.4. The Participating Agency shall Immediately notify CLTO of any concerns with the timely response to RFDs by Staffing Firms, Staffing Firm fulfillment of accepted OODs, and/or Staffing Firm failure to comply with Standard Terms of Engagement, as they may arise from time to time;
- 5.5. The Participating Agency shall share information with CLTO as may be requested from time to time in relation to their temporary staffing needs, the RFDs they issue, the OODs they receive and the OODs they accept and their experience with any of the Staffing Firms through the Program;
- 5.6. The Participating Agency shall be solely responsible for all obligations to any Staffing Firm (and any Designated Personnel) from which they accept an OOD or the deployment of Designated Personnel to their workplace, including the fulfillment of any and all responsibilities they may have under any Standard Terms of Engagement they may enter with such Staffing Firms;
- 5.7. The Participating Agency shall be responsible for paying the Service Fees as prescribed in the Standard Terms of Engagement and Firm Terms (**Exhibits A and B**) to any Staffing Agency from which they accept an OOD, the deployment of Designated Personnel or any other services, including but not limited to any Service Fees associated with Designated Personnel who are required to isolate (at work or at home) following an exposure in the Participating Agency's workplace as further described in the Standard Terms of Engagement at **Exhibit A**; and
- 5.8. In no event shall the Participating Agency be responsible for Retainer Fees payable to any Staffing Firm.

6. Funding Arrangements

- 6.1. CLTO shall seek funding to cover the cost of the Retainer Fees contemplated by this Agreement.

- 6.2. CLTO reserves the right to terminate this Agreement immediately without advance notice in the event that the Ministry of Children, Community and Social Services (the “**Ministry**”) refuses to provide funding to cover the Retainer Fees.
- 6.3. The Participating Agency may at its discretion seek additional funding resources to cover any additional costs associated with Service Fees payable in respect of the deployment of Designated Personnel. Nothing herein constitutes any representation, warranty or assurance that the Participating Agency will be eligible or receive additional funding.

7. Indemnification

- 7.1. **Indemnification for CLTO.** Participating Agency shall indemnify, hold harmless and, if requested by CLTO in its sole and absolute discretion, defend, at Participating Agency’s sole cost and expense, CLTO and its members, managers, directors, officers, agents, representatives, contractors and employees from damages or losses flowing from:
 - 7.1.1.a breach by the Participating Agency of any representation, warranty, covenant or term set forth in any Standard Terms of Engagement between the Participating Agency and any Staffing Firm;
 - 7.1.2.any and all potential liability arising, whether under tort, contract or otherwise, from the actions or inactions, or willful or negligent acts or omissions, of the Participating Agency or its members, managers, directors, officers, agents, representatives, contractors and employees, relating to participation in the Program; and
 - 7.1.3.any and all potential liability arising, whether under tort, contract or otherwise, from the actions or inactions, or willful or negligent acts or omissions, of any Staffing Firm or its members, managers, directors, officers, agents, representatives, contractors and employees, in relation to its services to the Participating Agency or any Standard Terms of Engagement between any such Staffing Firm and the Participating Agency.
- 7.2. **Indemnification for Participating Agency.** CLTO shall indemnify, hold harmless and, if requested by Participating Agency in its sole and absolute discretion, defend, at CLTO’s sole cost and expense, Participating Agency’s and its members, managers, directors, officers, agents, representatives, contractors and employees from damages or losses flowing from a breach of any representation, warranty, covenant or term set forth in this Agreement by CLTO.

8. Term and Termination

- 8.1. **Expiry.** Unless terminated earlier in accordance with the terms of this agreement, the Agreement shall end on the last day of the Term.
- 8.2. **Early Termination.** This agreement may be terminated by CLTO immediately in the event that:
 - 8.2.1.The Ministry refuses to provide funding to support the Retainer Fees.
 - 8.2.2.There are insufficient Staffing Firms or Designated Personnel to make the Program reasonable or viable in the opinion of CLTO.
 - 8.2.3.The Participating Agency commits a breach of this Agreement and the Participating Agency fails to correct the breach within the fifteen (15) calendar day period after being notified of the breach by CLTO (the “**Cure Period**”).

- 8.3. **Payment on Termination.** Upon termination of this Agreement for any reason, the Participating Agency shall be responsible for paying any Service Fees owing to any Staffing Firms or any continuing obligations that the Participating Agency may pursuant to this Agreement or any Standard Terms of Engagement entered into with any Staffing Firm.
- 8.4. **No Limitation of Remedies.** Any termination of this Agreement shall not in any respect limit any of either party's rights or remedies either in law or in equity or relieve either of them of any obligation incurred prior to the effective date of such termination.

9. General

- 9.1. **Survival.** Any duties and obligations which by their very nature extend beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.
- 9.2. **Remedies Cumulative.** The rights and remedies of either party under this Agreement are cumulative, and are in addition to and not in substitution for any other rights or remedies provided in this Agreement, by law or in equity. Any single or partial exercise by either party of any right under this Agreement, or any failure to exercise or delay in exercising any such right will not be or be deemed to be a waiver of, or to prejudice any other right, or remedies to which such party may be entitled.
- 9.3. **Notices.** Any notice, demand, request, consent, approval or acceptance required or contemplated to be given or made under this Agreement, shall be made by e-mail to:
 - o in the case of CLTO, email to Malcolm.bernstein@cltoronto.ca.
 - o in the case of Participating Agency, email to [REDACTED]or to such other address or number of which either party may from time to time notify the other in writing.
- 9.4. **Amendment and Waivers.** This Agreement may not be amended or modified in any respect except by written instrument signed by both parties. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver constitute a continuing waiver unless otherwise provided.
- 9.5. **No Agency.** This Agreement does not create the relationship of principal and agent or employer and employee between CLTO and the Participating Agency and under no circumstances is either party to be considered the agent of the other. Neither party shall have any authority to assume or create any obligation whatsoever, express or implied, in the name of or on behalf of the other party.
- 9.6. **Legislation.** When an Act is referred to in this Agreement, it shall be interpreted to include all of the regulations to the Act.

The parties hereby execute this Agreement:

Community Living Toronto

[Participating Agency]

Brad Saunders, CEO Community Living Toronto

[name and position]

[name and position]

(Authorized Signature)

January 7, 2022

(Date)

January 7, 2022

(Date)

EXHIBIT A

Exhibit A does not need to be signed or executed in advance, but rather is incorporated by reference and forms part of the contractual agreement between the Staffing Firm and a Participating Agency when the Participating Agency sends a Notice of Acceptance (Exhibit E) in response to an Offer of Deployment (Exhibit D) to the Staffing Firm.

STANDARD TERMS OF ENGAGEMENT

Between

_____ (“Participating Agency”)

and

_____ (“Staffing Firm”)

(together the “Parties”)

WHEREAS

- A. The Participating Agency is a part of the ON-CALL DEVELOPMENTAL SERVICES STAFFING POOL PROGRAM (the “Program”).
- B. The Staffing Firm has offered to deploy to the Participating Agency Designated Personnel for its immediate temporary staffing needs.
- C. The Participating Agency and the Staffing Firm wish to agree on the terms under which the Staffing Firm will deploy the Designated Personnel to the Participating Agency.

NOW THEREFORE, Participating Agency and the Staffing Firm agree to these Standard Terms of Engagement (the “Agreement”).

1. DEFINITIONS

- 1.1. For the purposes of this Agreement, the following terms have the definitions indicated:
 - 1.1.1. “Designated Personnel” means employees of the Staffing Firm who will be deployed to the Participating Agency pursuant to this Agreement.
 - 1.1.2. “Confidential Information” means information (in whatever form or howsoever obtained by the Staffing Firm or its Designated Personnel) pertaining to the Participating Agency, its operations, financial or contractual arrangements or relationships, the people it supports or their families (including but not limited to personal health information), as well as information pertaining to the Participating Agency’s employees, contractors, volunteers, officers or directors, or their families.
 - 1.1.3. “Placement Services” means the work assignments to be performed by Designated Personnel for the Participating Agency, which will involve direct support services to people supported by the Participating Agency in residential support settings and may involve

supporting people with intellectual disabilities and/or behavioural challenges, as well as working in settings where there is a suspected or confirmed outbreak of COVID-19.

- 1.1.4. **“Term”** means the period identified in the Firm Terms linked in the Offer of Deployment, or such other period as may be agreed in writing between the Parties from time to time.
- 1.1.5. **“Firm Terms”** means the specific terms applicable to the Staffing Firm linked in the Offer of Deployment. The Firm Terms augment this Agreement and are hereby incorporated by reference.
- 1.1.6. **“Offer of Deployment”** means the offer made by the Staffing Firm to deploy Designated Personnel to the Participating Agency in response to a request for deployment from such agency.
- 1.1.7. **“Notice of Acceptance”** means the notice sent from the Participating Agency accepting the Offer of Deployment of specified Designated Personnel from the Staffing Firm.

2. STAFFING FIRM RESPONSIBILITIES

- 2.1. **Assignment of Designated Personnel.** The Staffing Firm will assign Designated Personnel to perform the Placement Services for the Participating Agency in accordance with the Notice of Acceptance from the Participating Agency of the Offer of Deployment made by the Staffing Firm.
- 2.2. **Placement Criteria.** The Staffing Firm will deploy to the Participating Agency Designated Personnel who meet the following criteria (the **“Placement Criteria”**):
 - 2.2.1. **Willingness and Ability to Work.** The Staffing Firm must ensure that any Designated Personnel are willing and able to perform the Placement Services, including in the context of an active or suspected outbreak of COVID-19, and/or with people supported by the Participating Agency who may not be able to follow social distancing, respiratory hygiene, masking or personal protective equipment guidelines, or who may have complex behavioural needs.
 - 2.2.2. **COVID-19 Screening, Negative Rapid Antigen Test and Compliance with Public Health.** The Staffing Firm will ensure that any Designated Personnel that are the subject of an OOD has:
 - 2.2.2.1. passed the provincial employee screening as it may be from time to time (linked here - <https://covid-19.ontario.ca/screening/worker/>);
 - 2.2.2.2. received a negative rapid antigen test within the twenty-four (24) hour period immediately preceding the submission of the OOD and/or the start of their first shift with the Participating Agency;
 - 2.2.2.3. is/are not subject to a direction by Public Health restricting them from working for the Participating Agency; and
 - 2.2.2.4. is aware of and will adhere to any Toronto Public Health work-self isolation guidelines as may apply: <https://www.publichealthontario.ca/-/media/documents/ncov/ipac/ipac-covid-19-work-self-isolation.pdf?la=en>.

Notwithstanding the foregoing, in order to address the temporary shortage of rapid antigen test kits, until January 21, 2022:

- i. The Participating Agency will pay the cost of a Rapid Antigen Test (up to \$40) where the Request for Deployment is made 12 hours or more before the

start time of the shift; or

- ii. Where a request for deployment is received with less than twelve (12) hours in advance of the start time of the shift, the Participating Agency will provide rapid antigen testing for the Designated Personnel in question outside the worksite fifteen minutes prior to the shift.

Negative Rapid Antigen Testing requirements will be waived where the Participating Agency has agreed to accept deployment of a Designated Personnel who is asymptomatic but has tested positive for COVID-19 as disclosed in the OOD.

- 2.2.3. **Fitness to Work and Vaccination Status.** The Staffing Firm will ensure that any Designated Personnel assigned to Participating Agency are fully vaccinated against COVID-19, including receiving any boosters/third doses within two (2) weeks of becoming eligible (three months or 84 days after a second dose) for same with due regard to availability. The Staffing Firm will also ensure that any Designated Personnel assigned to Participating Agency are medically fit to perform the work in question and have all standard immunizations.
- 2.2.4. **Proof of Eligibility to Work in Canada.** The Staffing Firm will verify that any Designated Personnel assigned to the Participating Agency are legally authorized to work in Canada and for the Participating Agency. The Staffing Firm will provide proof of same upon request.
- 2.2.5. **Screened, Interviewed & Reference Checks Conducted.** The Staffing Firm will ensure that any Designated Personnel supplied to the Participating Agency is duly screened and interviewed by the Staffing Firm. The Staffing Firm will ensure that a minimum of two (2) professional reference checks are conducted for all the Designated Personnel, and that the references received are positive.
- 2.2.6. **Background Check.** The Staffing Firm will ensure that all Designated Personnel provide a satisfactory up to date criminal record check (Vulnerable Sector Screening (VSS) at least once every twelve months and the Staffing Firm will send to the Participating Agency designate a digital copy of same.
- 2.2.7. **Educational Requirements.** The Staffing Firm will ensure that the credentials and proof of completion of relevant post-secondary education for the Designated Personnel are valid and updated as may be required by the Participating Agency. More specifically, the Staffing Firm will ensure that the Designated Personnel supplied to the Participating Agency meet the following minimum educational requirements:
 - a. A minimum of a Social Service Worker certificate/diploma, DSW(Developmental Service Worker) preferred; or
 - b. Proof of 1 year nursing program completion; or
 - c. Ventilation & Tracheotomy training
- 2.2.8. **Mandatory Training/Licensing.** All the Designated Personnel supplied to the Participating Agency who will be involved with direct care of persons will be expected to successfully complete and maintain current and up-to-date certifications in the following mandatory training:
 - a. Standard First Aid & CPR (Level C or HCP)
 - b. Worker Health and Safety Awareness
 - c. Crisis Prevention and Intervention (CPI) / Safe Management

- d. Training on the Quality Assurance Measures (QAM) (once).
- e. Abuse Prevention training (within the last 12 months).
- f. Safe Management (within the last 12 months).
- g. CPR & First Aid (within the last 36 months).
- h. Pharmacology training (once).
- i. Medication Orientation ((within the last 12 months).).
- j. Accessibility for Ontarians with Disabilities Act (AODA) Training (once)
- k. Workplace Violence and Harassment (once).
- l. WHMIS for all substances identified by Participating Agency (once).
- m. Fire Safety (once).
- n. Any other Participating Agency policies provided by Participating Agency to the Staffing Firm (once).
- o. Public Health Ontario training videos:
 - Prevention and Control in Congregate Care Settings: <http://pho.adobeconnect.com/pyocz58bf827/> (from 4:00 to end – 50 minutes approx.)
 - Putting on full PPE: <https://www.publichealthontario.ca/en/videos/ipac-fullppe-on> (2 min approx.)
 - Taking off full PPE: <https://www.publichealthontario.ca/en/videos/ipac-fullppe-off> (2 min approx.)
 - Hand hygiene: <https://www.publichealthontario.ca/en/health-topics/infection-prevention-control/hand-hygiene/jcyh-videos> (2 min. approx.)

Participating Agency may require that any of the training identified above be repeated or updated where Participating Agency deems appropriate in its discretion. Staffing Firm shall bear the entire cost of ensuring that all such training and required retraining has been completed by all Designated Personnel.

2.2.9. **Orientation, Policies & Procedures.** The Participating Agency will provide orientation to all Designated Personnel deployed to it by the Staffing Firm, including in relation to relevant policies, procedures and systems to be used and protocols in effect.

2.3. **Confidentiality.** The Staffing Firm acknowledges that the Participating Agency has a legitimate and continuing proprietary interest in the protection of its confidential business information, as well as a duty to protect the personal information of its staff and the people it supports. The Staffing Firm will not collect, use, disclose or retain any Confidential Information, except as may be reasonably necessary for the performance of its responsibilities under this Agreement. The Staffing Firm agrees to take any measures reasonably necessary to ensure that any Designated Personnel do not engage in the collection, use, disclosure or retention of any Confidential Information at any time, except as reasonably necessary for them to perform their assignment to the Participating Agency. In the event of an unauthorized collection, use, disclosure or retention of Confidential Information by the Staffing Firm or any Designated Personnel, the Staffing Firm will immediately notify the Participating Agency and cooperate with the

Participating Agency in containing and mitigating the breach. Upon the termination of this Agreement (or the end of the assignment of any given Designated Personnel), any Confidential Information shall be returned to the Participating Agency by the Staffing Firm and/or the Designated Personnel, and any copies of digital records thereafter destroyed.

- 2.4. **Records of Compliance.** The Staffing Firm will keep records in relation to each Designated Personnel and Staffing Firm's compliance with its obligations as stated herein in relation to each Designated Personnel and make them available to Participating Agency upon request. This includes but is not limited to recording the number of hours worked by each Designated Personnel on a daily basis. Such records shall be retained for a minimum period of three years and shall be made available to the Participating Agency, or to the Ministry of Labour for inspection, upon request.
- 2.5. **Payments, Costs and Expenses.** The Staffing Firm shall be solely responsible for the payment of any and all wages and benefits to the Designated Personnel assigned to the Participating Agency. Staffing Firm shall bear all and shall pay in a timely and appropriate manner all expenses in connection with the Designated Personnel being assigned to and delivery of services to the Participating Agency, including without limiting the generality of the foregoing, income and other taxes, Employer Health Tax, Workplace Safety and Insurance Board premiums, Canada Pension Plan contributions and remittances, Employment Insurance contributions and remittances, and paying all Designated Personnel any amounts owing to them as a matter of common law, contract or statute and in any event in a manner that is consistent with the requirements of the *Employment Standards Act, 2000*, as may be amended from time to time (including regular wages, overtime, public holiday pay, vacation pay, notice pay for termination of an assignment, termination pay, personal emergency leave, and severance pay) obligations towards Designated Personnel.
- 2.6. **Performance Management.** The Staffing Firm will ensure that the Placement Services are performed by all Designated Personnel in professional and appropriate manner. If, while performing work for the Participating Agency, a Designated Personnel has performance issues or engages in any misconduct, the Participating Agency agrees to inform the Staffing Firm and the Staffing Firm agrees to take appropriate administrative and/or disciplinary measures.
- 2.7. **WSIB Coverage.** The Staffing Firm will maintain WSIB registration, pay all required premiums and meet all regulatory requirements for all Designated Personnel and will, upon request, provide a WSIB clearance certificate as verification that its account is in good standing.
- 2.8. **Termination of Assignment.** Staffing Firm shall terminate the assignment of any Designated Personnel supplied by it to Participating Agency (under the sole discretion of Participating Agency), immediately upon verbal or written notice where:
 - 2.8.1. a Designated Personnel has exhibited reckless, careless or abusive conduct in carrying out Placement Services at Participating Agency;
 - 2.8.2. a Designated Personnel has breached any of Participating Agency's policies or procedures; and/or
 - 2.8.3. any other reason which, in Participating Agency's sole discretion, justifies the termination of the Designated Personnel's placement at Participating Agency.
 - 2.8.4. Participating Agency agrees to provide Staffing Firm with a written confirmation of the incident outlining the causes that justified the request for removal. Upon removal of assignment personnel, Staffing Firm will provide Participating Agency with written

confirmation of the same, re: Do Not Redeploy (or other such designation).

2.9. **Insurance.** Staffing Firm shall agree to furnish Participating Agency with a certificate of liability insurance covering public liability, bodily injury and property damage, product and completed operations liability and contractual liability in amounts satisfactory to and with a company approved by Participating Agency. Such policy shall contain a cross-liability clause; an endorsement adding Participating Agency as an additional insured; and an endorsement stating that the policies shall not be cancelled, allowed to expire or materially changed without 30-days prior written notice to Participating Agency in accordance with the following table. Staffing Firm will maintain, at its expense:

2.9.1. **Commercial General Liability.** \$5,000,000.00 Commercial General Liability Insurance per incident, covering public liability, bodily injury and property damage, product and completed operations liability. Such policy shall contain a cross-liability clause; an endorsement adding Participating Agency as an additional insured; and an endorsement stating that the policies shall not be cancelled, allowed to expire or materially changed without 30-days prior written notice to Participating Agency.

2.9.2. **Abuse Liability Coverage.** \$1,000,000.00 Abuse Liability Coverage with respect to all intentional and unintentional acts of physical, psychological and sexual abuse including claims as a result of mental anguish, discrimination, unauthorized use of a restraint device, harassment, corporal punishment and neglect. Coverage should include defence costs. Coverage can be issued on an Occurrence or Claims Made basis. If Abuse coverage is issued on a Claims Made basis the Staffing Firm agrees to ensure continuous coverage during the period of its agreement with Participating Agency and should the agreement with Participating Agency cease at any point in the future that extended reporting period coverage be purchased for a minimum of three (3) years after the date of the final employment placement.

2.9.3. **Medical Malpractice Liability Insurance.** \$2,000,000.00 Medical Malpractice Liability Insurance coverage.

2.9.4. **Vehicle Usage and Insurance Coverage.** Staffing Firm assigned staff who are authorized by Participating Agency as drivers of a Participating Agency-owned vehicle will be covered under Participating Agency's vehicle insurance. Staffing Firm assigned staff who elect to use their own personal vehicles for Participating Agency business inclusive of transportation to/from a Participating Agency place of work will NOT be covered under Participating Agency insurance, rather, they must be covered by their own driver's personal insurance policy. The driver must show proof that they carry a minimum of \$1,000,000 insurance on their personal vehicle.

2.10. **Representations and Warranties.** Staffing Firm's Representations and Warranties. Staffing Firm represents and warrants to Participating Agency and acknowledges that Participating Agency is relying thereon as follows:

2.10.1. Staffing Firm will be in compliance with all Provincial and Federal laws, meet all requirements and professional licensing requirements applicable to the employment of the Designated Personnel, if and when they come into effect;

2.10.2. Staffing Firm, and any Designated Personnel, have the expertise to perform capably and efficiently and to meet the standard of care provided to persons supported by the Participating Agency in the performance of the Placement Services and will perform all

of services, including the Placement Services, contemplated by this Agreement in a professional, diligent and efficient manner.

Where Participating Agency notifies Staffing Firm that it is in breach of any of its representations or warranties above, Staffing Firm shall use its best efforts, at no expense to Participating Agency, to remedy such breach as quickly as possible but not longer than 30 days following such notification, including providing additional or alternate Services, satisfactory to Participating Agency, to ensure that Participating Agency's operations are not disrupted by such breach. Where Staffing Firm is unable to correct the breach within the said 30-day period, Participating Agency without restricting its recourse, including the right to claim damages and legal fees, shall be entitled to terminate the Agreement without further notice.

- 2.11. **Indemnity.** Staffing Firm shall hold harmless and indemnify the Participating Agency from and against any liability, damages, losses, costs (including legal costs on a solicitor and client basis), claims, applications, complaints, proceedings, or actions (whether or not well founded and whether for unpaid wages, breach of statutory or contractual obligations, damage to property or injury or death to humans) brought against Participating Agency, its officers, directors, supervisors, managers, contractors, students, volunteers or employees (collectively, "Indemnitees") arising out of or related to:
- 2.11.1. any breach or alleged breach by Staffing Firm (and any Designated Personnel) of any of its responsibilities, warranties or representations in this Agreement;
 - 2.11.2. any and all services provided by the Staffing Firm (or Designated Personnel) pursuant to this Agreement;
 - 2.11.3. Staffing Firm shall indemnify and hold the Indemnitees harmless against any such claim or action with respect to, provided that Participating Agency promptly notifies Staffing Firm of any claim or action in respect of which this indemnity may apply and of which Participating Agency has knowledge and Participating Agency co-operates with Staffing Firm in the defense of any such claim or action. No such claim or action shall be settled or compromised by Staffing Firm without Participating Agency's prior written consent.

3. PARTICIPATING AGENCY RESPONSIBILITIES

- 3.1. Participating Agency will perform the following responsibilities:
- 3.1.1. **Orientation** - Participating Agency shall provide all newly supplied Designated Personnel with an orientation session where key expectations, requirements and procedures will be communicated to the Designated Personnel.
 - 3.1.2. **Direction** - Participating Agency shall be responsible for providing direction to the Staffing Firm Designated Personnel during their assignment to any of the Participating Agency's location(s).
 - 3.1.3. **Rapid Antigen Testing** – The Staffing Firm will ensure that any Designated Personnel receive one negative Rapid Antigen Test prior to being deployed to the Participating Agency (unless the RFD was made within 12 hours of shift, see article 2.2.2 ii). For any subsequent rapid testing requirements for the Designated Personnel to continue working for the Participating Agency after the initial deployment date, the Participating Agency will be responsible for same.

- 3.1.4. **Workplace Accidents** - In the event of a workplace accident involving a Designated Personnel, the Participating Agency agrees to notify the Staffing Firm as soon as possible and the Participating Agency agrees to cooperate with the Staffing Firm in respect to any investigation of any workplace accident involving the Designated Personnel. The Staffing Firm similarly agrees to notify the Participating Agency as soon as possible and cooperate with the Participating Agency in respect to any investigation it may conduct of any workplace accident involving the Designated Personnel.
- 3.1.5. **Direct Hire.** If Participating Agency wishes to directly hire a Designated Personnel in the six (6) months following the first day on which the Designated Personnel was first assigned to the Participating Agency, the Participating Agency will pay a service fee (finder's fee) calculated based on: the Regular Rate set out in Exhibit B multiplied by 160.
- 3.1.6. **Record Keeping.** Participating Agency shall record the following information:
 - a. The name of each Designated Personnel assigned to perform work for Participating Agency for the purposes of this Agreement; and
 - b. The number of hours worked by each Designated Personnel assigned to perform work for Participating Agency in each day and each week during the term of this Agreement.
- 3.1.7. **Payment of Service Fees.** Participating Agency will pay the Service Fees as identified in Article 4 below.
- 3.1.8. **Commitment in the Event of Exposure.** If a Designated Personnel is exposed to COVID-19 in the Participating Agency's workplace and is therefore subject to a direction to isolate at home or at work, the Participating Agency will provide: a) a minimum of forty (40) hours of work-self isolation in the workplace where the exposure occurred during the isolation period; or b) forty (40) hours' Service Fees in lieu thereof if the Designated Personnel is not permitted to work during the 7-day period.

4. PRICES AND PAYMENT

- 4.1. **Fee for Services Rendered.** The Services Fees for work performed by Designated Personnel assigned to the Participating Agency will be as follows:
 - 4.1.1. **Regular Rate:** The Regular Rate set out in the Firm Terms for a minimum of eight (8) hours per shift worked by a Designated Personnel.
 - 4.1.2. **Public Holiday Rate.** Services provided by Designated Personnel on public holidays (as defined by the Employment Standards Act, 2000) at the rate of 1.5 times the Regular Rate.
 - 4.1.3. **Overtime Rate.** Services provided by a Designated Personnel in excess of forty-four (44) hours in one week shall be paid at 1.5 the regular rate.
 - 4.1.4. **HST.** All Service Fees are subject to HST, subject to proof of a valid HST registration number.
 - 4.1.5. **Temporary Pandemic Pay.** In the event that the Participating Agency receives temporary pandemic pay wage enhancement in respect of the hours worked by the Designated Personnel from the government, the Participating Agency will remit such wage enhancement to the Staffing Firm for distribution to the Designated Personnel within thirty (30) days of receipt.

- 4.1.6. **No Service Fees.** No Service Fees shall be payable in respect of a Designated Personnel who is deployed to the Participating Agency but does not meet the Placement Criteria and/or the terms of the OOD and therefore is not permitted to work (i.e. a Failed Deployment).
- 4.2. **Invoices.** Invoices will be prepared by the Staffing Firm with the following details:
 - 4.2.1. Hours worked (with record of days and actual time at which work performed);
 - 4.2.2. Rate applicable (including the basis on which any overtime or public holiday rates have been applied).
 - 4.2.3. HST and HST registration number.
 - 4.2.4. Invoices will be submitted in arrears for work performed by email to the Participating Agency address for notices set out in the Request for Deployment.
- 4.3. **Payment of Invoices.** The Participating Agency shall pay invoices within thirty (30) business days from the date on invoice, subject to acceptance.

5. TERM AND TERMINATION

- 5.1 **Expiry.** Unless terminated earlier in accordance with the terms of this agreement, the Agreement shall end on the last day of the Term.
- 5.2 **Early Termination on Notice.** This agreement may be terminated by either party at any time upon 30 days' written notice or such earlier date as the parties may agree.
- 5.3 **Early Termination for Breach.** Participating Agency may terminate the Agreement immediately at the end of the Cure Period (as hereinafter defined), if Staffing Firm (or any Designated Personnel) commits a breach of this agreement, including but not limited to jeopardizing the health and wellbeing of people supported by Participating Agency, and the Staffing Firm fails to correct the breach within the fifteen (15) calendar day period after being notified of the breach by the Participating Agency (the "Cure Period").
- 5.4 **Payment on Termination.** Upon termination of this Agreement for any reason, Participating Agency shall be responsible for paying only the Fees (or prorated portion thereof) associated with services provided by the Staffing Firm up to and including the last date on which the Staffing Firm provided services to Participating Agency.
- 5.5 **No Limitation of Remedies.** Any termination of this Agreement shall not in any respect limit any of either party's rights or remedies either in law or in equity or relieve either of them of any obligation incurred prior to the effective date of such termination.

6. GENERAL

- 6.1. **Survival.** The provisions of Articles 2.3, 2.4, 2.5, 2.9, 2.10 and 2.11 and any duties and obligations which by their very nature extend beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.
- 6.2. **Remedies Cumulative.** The rights and remedies of Participating Agency under this Agreement are cumulative, and are in addition to and not in substitution for any other rights or remedies provided in this Agreement, by law or in equity. Any single or partial exercise by Participating Agency of any right under this Agreement, or any failure to exercise or delay in exercising any such right will not

be or be deemed to be a waiver of, or to prejudice any other right, or remedies to which Participating Agency may be entitled.

- 6.3. **Notices.** Any notice, demand, request, consent, approval or acceptance required or contemplated to be given or made under this Agreement, shall be made by:
- in the case of Staffing Firm to the contact information provided in **Firm Terms**.
 - in the case of Participating Agency, email to the contact of information identified in the **Request for Deployment**.

or to such other address or number of which either party may from time to time notify the other in writing.

- 6.4. **Amendment and Waivers.** This Agreement may not be amended or modified in any respect except by written instrument signed by both parties. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver constitute a continuing waiver unless otherwise provided.
- 6.5. **Staffing Firm not Agent.** This Agreement does not create the relationship of principal and agent or employer and employee between Participating Agency and Staffing Firm and under no circumstances is either party to be considered the agent of the other. Staffing Firm shall have no authority to assume or create any obligation whatsoever, express or implied, in the name of or on behalf of Participating Agency.
- 6.6. **Legislation.** When an Act is referred to in this Agreement, it shall be interpreted to include all of the regulations to the Act.

Agreed to by the Staffing Firm and the Participating Agency effective upon delivery by email of the Notice

EXHIBIT B

Firm Terms

Staffing Firm Name	Number of Designated Personnel On-Call	Regular Hourly Rate	Contact (reg. business hours)	Contact (outside reg. business hours)	Contact for Payment	HST Number	Modifications to Standard Terms
	DSP - RPN - RN -	For Direct Support Worker: \$35.00/hour For RPN, if applicable: \$100.00/hour For RN, if applicable: \$114.00/hour	_____ _____	_____ _____	_____ _____		
	DSP - RPN - RN -	For Direct Support Worker: \$35.00/hour For RPN, if applicable: \$100.00/hour For RN, if applicable: \$114.00/hour	_____ _____	_____ _____	_____ _____		
	DSP - RPN - RN -	For Direct Support Worker: \$35.00/hour For RPN, if applicable: \$100.00/hour For RN, if applicable: \$114.00/hour	_____ _____ _____	_____ _____ _____	_____ _____ _____		
	DSP - RPN - RN -	For Direct Support Worker: \$35.00/hour For RPN, if applicable: \$100.00/hour	_____ _____ _____	_____ _____ _____	_____ _____ _____		

EXHIBIT C – REQUEST FOR DEPLOYMENT FORM

In order to request deployment of Designated Personnel, Participating Agencies will complete this Form with their requirements and e-mail it to all participating staffing firms copying StaffingPool@cltoronto.ca.

Request for Deployment Form	
The Participating Agency requires deployment of Designated Personnel under the DS Staffing Pool Program. The details of the deployment requirements are as follows.	
Participating Agency Name	
Contact For Response and Notices	
Contact for Billing	
Date of Request	
Deployment Requirements	
Shifts Required by Location	<i>[include complete schedule of shifts]</i>
Number of Personnel Required	<i>[number]</i>
Shift Address	<i>[location]</i>
Currently in Outbreak	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will accept Personnel that are Covid-19 Positive but Asymptomatic	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will accept Personnel that have worked in an Outbreak Location for another agency within the preceding 7-day period but tested negative	<input type="checkbox"/> Yes <input type="checkbox"/> No
Rapid Testing	<input type="checkbox"/> Negative result required prior to deployment within 24 hours of first shift <input type="checkbox"/> Rapid testing available outside work location upon arrival to first shift (required if RFD is within 12 hours of shift start time)
Standard Terms of Engagement	Any Offer of Deployment made in response to this RFD must incorporate the Standard Terms of Engagement linked below and link to any Firm Terms applicable to the Staffing Firm. <i>Link: Standard Terms of Engagement</i>

CONTACT LIST FOR REQUEST FOR DEPLOYMENT

REGULAR HOURS CONTACT LIST:

AFTER HOURS CONTACT LIST (M to F, 8pm to 6am; Weekends):

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EXHIBIT D – OFFER OF DEPLOYMENT FORM

Staffing Firms must respond to Requests for Deployment (RFD) using this form as follows:

- 1.1.1. For RFDs sent between 6 a.m. and 8 p.m. - 30 minutes after each RFD is sent; and
- 1.1.2. For RFDs sent between 8 p.m. and 6 a.m. – 3 hours after each RFD is sent.

The Completed Form must be sent by e-mail to the e-mail address indicated in the RFD, copying StaffingPool@cltoronto.ca.

Offer of Deployment Form				
<p>The Staffing Firm makes this Offer of Deployment (OOD) in response to the Request for Deployment (RFD) made by the Participating Agency on the Request Date indicated below.</p> <p>This OOD remains valid for the period of 1 hour from the time it is sent and thereafter the Staffing Firm does not guarantee the availability of personnel to meet the requirements of the OOD.</p>				
Staffing Firm Name				
Contact For Acceptance and Notices				
RFD Details	Participating Agency: <i>[name]</i> Request Date: <i>[date on RFD]</i>			
Contact for Billing				
Resources Available				
Personnel Availability	Availability <i>[List first date/time of availability]</i>	Staff Exposure Status <i>[X = Yes]</i>		
		Negative Rapid Antigen Test and No Exposure within past 7 days	Worked in an outbreak location or considered a close contact of positive case within last 7 days but rapid antigen tested negative for Covid-19 within last 24 hours	Covid-19 Positive Rapid Antigen Test but Asymptomatic
Staff 1 [Add names]				
Staff 2 [Add names]				
Staff 3 [Add names]				
Staff 4 [Add names]				
Staff 5 [Add names]				
Terms of Offer	This Offer of Deployment is subject to the Standard Terms of Engagement and Firm Terms linked below. If this Offer of Deployment is accepted by the Participating Agency then these terms shall be binding upon both parties. Standard Terms of Engagement Firm Terms			

EXHIBIT E – NOTICE OF ACCEPTANCE

If a Participating Agency chooses to accept an Offer of Deployment (OOD) from a Staffing Firm they shall respond by e-mail to the e-mail address identified in the OOD using the following wording with the highlighted terms to be completed by the Participating Agency and copy StaffingPool@cltoronto.ca.

NOTICE OF ACCEPTANCE

In response to the Offer of Deployment from [Staffing Firm] provided on [date], [name of agency] (the “Participating Agency”) accepts the deployment of the following personnel from [staffing firm name] (the “Staffing Firm”) for the following shifts:

- [list shifts and Designated Staff accepted]

I confirm acceptance of the Standard Terms of Engagement and Firm Terms linked in the Offer of Deployment, which form a contractual agreement between the Participating Agency and the Staffing Firm.