



TERMS AND CONDITIONS

For The COVID-19 “Stop the Spread and Stay Safe” Program (the “Agreement”)

Between

the Participant Organization

and

The Canadian Red Cross Society (“CRCS”)

The CRCS hereby agrees to endeavour to provide:

- (a) COVID-19 rapid antigen tests (“**COVID-19 Screening Tests**”) and non-medical masks (“**Masks**”) on an as-is basis as made available by Health Canada on behalf of the Government of Canada for the purposes of administering the Stop the Spread and Stay Safe Program, which involves two streams (1) free distribution to individual recipients and community organizations (the “Stay Safe at Home Stream”) and (2) administering a screening program for the Participant Organization and its personnel (the “Stay Safe at Work Stream”); and

With respect to the Stay the Safe at Work Stream, guidelines on how to administer the COVID-19 Screening Tests and how to set up a screening program to administer the COVID-19 Screening Tests, access to call center and tailored supports by a team of experts including webinars with experts to support a screening program (“**Screening Program Guidelines**”) to the organizations that have applied and determined to be eligible (“**Participant Organization**”) in accordance with the terms of this Agreement. Notwithstanding this, the Participant Organization is required to meet the requirements of and follow the guidelines set out by their applicable Public Health authority and the terms and conditions of the “Stop the Spread and Stay Safe” Program: Agreement with the Government of Canada required to be signed prior to the distribution of the COVID-19 Screening Tests. By signing this Agreement, the Participant Organization hereby agrees, and will ensure its employees and any other recipients to whom this Agreement complies agrees, to the following terms and conditions:

1. **Term.** This Agreement shall commence on the date of signature of this Agreement and shall continue in effect throughout the Term or until either party terminates the Agreement in accordance with the provisions of Article 9 below.
2. **Use and availability of COVID-19 Screening Tests and masks.** If COVID-19 Screening Tests and masks are provided by the CRCS to the Participant Organization, then the Participant Organization will only use the COVID-19 Screening Tests in Canada (and will not be exported or used elsewhere) for the purposes of implementing the Stay Safe at Home and (or) Stay Safe at Work streams of the Stop the Spread and Stay Safe Program (together, the “**Permitted Purposes**”). The Participant Organization will not utilize the COVID-19 Screening Tests or masks for purposes outside of the Permitted Purposes or sell or otherwise assign or dispose of the COVID-19 Screening Tests or masks without the consent of the CRCS in writing. The Participant Organization covenants and agrees that the information provided to the CRCS

in its COVID-19 Screening for Community Organizations Program Application Form (the “**Application Form**”) is accurate and up to date, including but not limited to the Participant Organization’s need for COVID-19 Screening Tests and masks for the Stay Safe at Work Stream in the quantity requested informed by the number of personnel submitted as part of the application process. The provision and delivery of COVID-19 Screening Tests and masks to the Participant Organization is subject to, among other things, the general availability of COVID-19 Screening Tests and masks in quantities and form acceptable to the CRCS and the ability of the CRCS to receive, distribute and deliver such COVID-19 Screening Tests and masks during the COVID-19 pandemic. The COVID-19 Screening Tests and masks may be delivered to the Participant Organization on different dates and in different shipments and this Agreement shall apply to all deliveries of COVID-19 Screening Tests and masks from the CRCS.

3. **Relationship.** Nothing in this Agreement shall constitute or be construed to create a partnership, agency, joint venture or an employment relationship as between the parties and neither party shall hold itself out as partner, agent, joint venturer or employee of the other or any other type of relationship that renders one party liable for the debts or obligations of the other party except as specifically provided for in this Agreement. In addition, nothing in this Agreement creates nor is to be interpreted, construed or held out as creating any role, responsibility, obligation or interest for or in the Government of Canada. Nothing in this Agreement creates any undertaking, commitment or obligation by the CRCS to provide additional or future COVID-19 Screening Tests, masks or the Program beyond the Term, or to provide COVID-19 Screening Tests or masks that exceeds the maximum contribution specified in this Agreement.
4. **Insurance.** Without in any way limiting the liability of the Participant Organization under this Agreement, it shall be the sole responsibility of the Participant Organization to maintain and keep in force and effect during the term of this Agreement sufficient insurance as is customarily kept by an organization conducting similar activities including insurance for general liability.
5. **Confidentiality.** Confidentiality. Each party acknowledges that, during the term of this Agreement, it may be required from time to time to disclose to the other party certain confidential and proprietary materials, information and data relating to that party's activities (all of which is referred to as "Confidential Information"). Each party acknowledges that the other's Confidential Information, other than that which is (a) publicly known, or (b) is known to the receiving party at the time of disclosure without obligation of confidentiality to the disclosing party, is confidential and proprietary information. The parties shall not, during the term of this Agreement or thereafter, use, disclose, divulge or make available each other's Confidential Information to any third party either directly or indirectly in any manner whatsoever without the prior written consent of the other party, except that the CRCS may share information with its advisors and the Government of Canada (including Health Canada) as required. Notwithstanding the foregoing, the Participant Organization consents to the use and disclosure publicly or to other humanitarian organizations or government agencies, of data, outcomes, information, reports, statistics, modelling, and other materials related to the Program for the purposes of research, service delivery improvement, emergency preparedness and other humanitarian purposes, and for the purposes of reporting to the Government of Canada (including Health Canada).
6. **Termination.** The CRCS shall have the right to terminate this Agreement at any time and for any reason on ten (10) days' written notice to the Participant Organization. In the event of improper use of the COVID-19 Screening Tests, or non-compliance with the Program by the Participant Organization under, or a material breach by the Participant Organization of, any term of this Agreement, as determined by the CRCS, the CRCS may terminate this Agreement effective immediately upon delivery of written notice of termination to the Participant Organization. In the

event of termination, the Participant Organization will forthwith return to the CRCS any unused COVID-19 Screening Tests or masks, cease to use the CRCS and Government of Canada logos (where applicable) and the CRCS will have no further obligations under the Agreement.

7. **Books and Records and Reporting.** The Participant Organization must provide reporting to CRCS, which must include the following information as well as and any other information required by the CRCS and Health Canada from time-to-time during the Term of this Agreement: (1) Stay Safe at Work Stream: the Participant Organization's usage of the COVID-19 Screening Tests, the number of COVID-19 Screening Tests used by the Participant Organization, the number of COVID-19 Screening Tests that returned negative results, the number of COVID-19 Screening Tests that returned presumptive positive results, ; (2) Stay Safe at Home Stream: , the number of COVID-19 Screening Tests that were distributed to clients and personnel of the Participant Organization and where applicable, the number of COVID-19 Screening Tests that were provided to other organizations, and the number of organizations that were provided with COVID-19 Screening Tests.

It is understood that CRCS shall provide such reports and/or any information contained therein to Health Canada and may provide such information to other government bodies or institutions as required or appropriate. The Participant Organization acknowledges that information obtained by the CRCS pertaining to this Agreement, and/or any information disclosed to Health Canada or another government body or institution, may be disclosed through a freedom of information request (including to members of the public and/or the media). The reports provided by the Participant Organization shall not include any personal information (i.e., information about an identified or identifiable individual) unless strictly required pursuant to Health Canada requirements or applicable law. The Participant Organization is responsible for maintaining full and complete books and records of the Program and their screening program, including COVID-19 Screening Test results (Stay Safe at Work Stream) as well as copies of all relevant notices provided to relevant individuals and/or consents obtained from relevant individuals. The CRCS reserves the right to audit the Participant Organization and the Participant Organization shall provide reasonable access to its books and records for this purpose for a period of seven years following completion of the Project. Participant Organization will also provide copies of the notices it is required to provide and the consents it is required to obtain pursuant to this Agreement, promptly (and in any event within 72 hours) on request by CRCS, including, without limitation copies of the signed CRCS Consent and Waiver Forms (as provided by the CRCS as part of the Stay Safe at Work Steam materials available on the CRCS Program materials website)

8. **Recognition.** The Participant Organization shall recognize the support of the CRCS and Health Canada, representing the Government of Canada, in any publicly available information and other materials related to the COVID-19 Screening Tests and masks in accordance with the Training and the Screening Program Guidelines. Without limiting Article 8, CRCS may list the Participant Organization's name, location and pertinent details of the Program on the CRCS' website and social media platforms and may use photographs, recordings and other testimonials provided by the Participant Organization on the CRCS website and in social media and in reports to the Government of Canada and other partners. The Participant Organization acknowledges that information obtained by the CRCS pertaining to this Agreement may be disclosed through a freedom of information request.
9. **Logos and Trademarks and Intellectual Property.** For the sole purpose of public communications and publicity for the Program, the CRCS consents to the Participant Organization's use of its name, trademarks, trade names, logo and other branding. This shall include photos and reports provide as part of the Program. For the purpose of public communications, research, reporting and publicity for the Program, the Participant Organization consents to the CRCS' and the Government of Canada's use of its

name, trademarks, trade names, logo and other branding as well as photos, reports, testimonial and other Program materials. Any and all use of marks mentioned in this section by a party (the “**recipient**”) shall ensure to the benefit of the owner of the marks (the “**grantor**”) only and the recipient shall cooperate fully and in good faith with the grantor to establish and/or protect the grantor’s rights, title, interest and/or goodwill in and to the marks used by the recipient. The recipient agrees that all such marks are owned by the grantor, and that nothing in this Agreement gives the recipient any rights, title, interest and/or goodwill in and to the marks used by the recipient, other than to use the grantor’s marks in accordance with this Agreement. No party shall allow third parties to use the marks of the other party without prior written consent, which consent shall be in the form determined by the grantor. When using a trade-mark of the grantor, the recipient shall display with the trade-mark, (i) in the case of a registered trade-mark, “[TRADE-MARK] is a registered trade-mark of [GRANTOR], used under license by [RECIPIENT]”, and (ii) in the case of an unregistered trade-mark, “[TRADE-MARK] is a trade-mark of [GRANTOR], used under license by [RECIPIENT]”. The grantor’s consent to use of a trade-mark by the recipient may be revoked upon failure by the recipient to comply with any term of this Agreement, or if the grantor is otherwise dissatisfied with the manner in which the trade-mark is being depicted, or with the character or quality of the goods or services in association with which the trade-mark is being used.

10. **Monitoring and Evaluation.** The Participant Organization will be responsible for the routine management and monitoring of their own screening program. The Participant Organization consents to the provision of contact information of members of the board of directors and/or management of the organization so that they can participate in a survey, interview, case study or other data collection exercise initiated by the Government of Canada. The Participant Organization, in carrying out the Program, shall comply with any Guidelines provided by the CRCS.
11. **Assignment or Subcontracting.** Neither party may assign, pledge, mortgage or otherwise encumber any of its rights under this Agreement without the prior consent of the other.
12. **Amendment.** This Agreement may be amended upon mutual written agreement of the parties. Notwithstanding the foregoing, the CRCS may amend the Agreement by providing ten days’ written notice to the Participant Organization.
13. **Intellectual Property Ownership.** The CRCS owns all right, title, and interest, including all intellectual property rights, in and to the Program materials. If the Participant Organization or any of its employees, contractors and agents sends or transmits any communications or materials to the CRCS by mail, email, telephone, or otherwise, suggesting or recommending changes to the Training, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“**Feedback**”), all such Feedback is and will be treated as non-confidential. The Participant Organization hereby assigns to the CRCS on its behalf, and shall cause its employees, contractors, and agents to assign, all right title and interest in, and the CRCS is free to use, without any attribution or compensation to the Participant Organization or any third party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although the CRCS is not required to use any Feedback.
14. **Contractual Commitments with Third Parties.** The CRCS shall not be held liable for any contractual commitments entered into by the Participant Organization with any third party for the performance of the Program.
15. **Compliance with Laws and Governing Laws.** Each of the parties agree to comply with all laws, ordinances, rules, and regulations of any government or administrative agency, federal, provincial, municipal or local that affect the Program. The Participant Organization shall obtain, prior to the

commencement of the Program, all permits, licences, consents and other authorizations that are necessary for carrying out the Program. This Agreement and the rights and obligations and relations of the parties shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

16. **Dispute Resolution.** In the event a dispute arises out of or in connection with this Agreement, the dispute shall be settled by arbitration before a single arbitrator in Ottawa, Ontario, in accordance with the Arbitration Act, 1991 (Ontario) or as otherwise agreed upon by the parties to the dispute. All proceedings relating to arbitration shall be kept confidential, and there shall be no disclosure of any kind. The decision of the arbitrator shall be final and binding and shall not be subject to appeal on a question of fact, law or mixed fact and law.
17. **Indemnity.** The Participant Organization agrees, both during and following the Term, to defend, indemnify, and hold the CRCS, its directors, officers, members, employees, volunteers, agents and affiliates, harmless from and against any direct loss, claim, cause of action, suit, injury, expense, damage or liability, including reasonable legal costs, relating to or as a result of:
 - a. the use of the COVID-19 Screening Tests, masks, and Guidelines;
 - b. this Agreement or any action taken or things done or maintained by virtue hereof, or the exercise in any manner of rights arising hereunder;
 - c. the negligence or willful misconduct of the Participant Organization in connection with or related to the performance of its obligations pursuant to this Agreement including the operation of their own screening program;
 - d. any misrepresentation made by the Participant Organization in any application to or communication with the CRCS or made by the Participant Organization in furtherance of its performance pursuant to this Agreement; or
 - e. any breach or default by the Participant Organization of any of its obligations pursuant to this Agreement.
18. **NO WARRANTY.** ANY COVID-19 SCREENING TESTS, MASKS AND TRAINING ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING THE COVID-19 SCREENING TESTS IS STRICTLY BETWEEN THE PARTICIPANT ORGANIZATION AND THE THIRD-PARTY MANUFACTURER OR SUPPLIER OF THE COVID-19 SCREENING TESTS AND NOT THE CRCS. THE CRCS MAKES NO CONDITION OR WARRANTY WHATSOEVER WITH RESPECT TO THE USE OF THE COVID-19 SCREENING TESTS, MASKS AND TRAINING, INCLUDING, WITHOUT LIMITATION, ANY (A) CONDITION OR WARRANTY OF MERCHANTABILITY; (B) CONDITION OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) CONDITION OR WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. BY ACCEPTING THE COVID-19 SCREENING TESTS, MASKS AND TRAINING THE PARTICIPANT ORGANIZATION ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION, CONDITION OR WARRANTY MADE BY THE CRCS, OR ANY OTHER PERSON ON THE CRCS' BEHALF.
19. **Acknowledgement of Risk.** The Participant Organization understands and agrees that the use of the COVID-19 Screening Tests and masks are just one infection prevention control measure and should be used in accordance with health authority guidance. The Participant Organization understands that the use of the COVID-19 Screening Tests as part of a COVID-19 screening program does not eliminate the hazards or prevent someone from getting COVID-19, and should not be relied upon as a stand-alone mitigation measure, nor used to increase the number of individuals in a workplace. The Participant Organization understands and will make reasonable efforts to communicate to individual recipients that the COVID-19 Screening Tests may yield a false negative or false positive result. The risk of acquiring or

spreading infection should be mitigated as much as possible through abiding by local health authority guidance, as well as procedures and policies to support infection prevention, such as wearing masks, practicing proper hand hygiene, physical (social) distancing, and cleaning. The Participant Organization also understands and agrees that it is the Participant Organization's sole responsibility to ensure its personnel perform activities safely and in accordance with local and national infection prevention control and updated Public Health guidance and requirements. The Participant Organization accepts and acknowledges that the use of the COVID-19 Screening Tests and masks is at the Participant Organization's own risk.

20. **Damages.** The Participant Organization accepts and acknowledges that the CRCS is not liable for any losses, liability or damages (collectively "**Damages**") relating to the COVID-19 Screening Tests, masks, and Guidelines or the use of the COVID-19 Screening Tests, masks, and Training. Such Damages include direct, indirect, consequential, special, or incidental damages, even if such Damages were reasonably foreseeable. Further, the Participant Organization hereby releases and waives any claim or demand it has or may have against the CRCS, its employees, directors, officers, agents, any of its affiliated or related entities, and their respective employees, directors, officers, agents and all those for whom the CRCS is responsible at law (i) in connection with the COVID-19 Screening Tests, masks, and Guidelines or its use, and (ii) for any detriment, damage, accident or injury of any nature whatsoever or however caused with respect to any action taken or things done or maintained in connection with the COVID-19 Screening Tests, masks and Training, its use, or this Agreement, or the exercise in any manner of rights arising herein.
21. **WAIVER AND RELEASE.** The Participant Organization hereby expressly waives and releases any and all claims which it has or may in the future have against the CRCS, its directors, officers, employees, agents, representatives, members, successors and assigns, and its affiliates, and their respective directors, officers, employees, agents, representatives, members, successors and assigns (collectively, "**Releasees**"), arising out of or attributable to the use of the COVID-19 Screening Tests, masks, and Training, due to any cause whatsoever, including, without limitation, the negligence of the CRCS or any other Releasee, breach of contract, or breach of any statutory or other duty of care. The Participant Organization covenants not to make or bring any such claim against the CRCS or any other Releasee, and forever releases and discharges the CRCS and all other Releasees from liability under such claims. The Participant Organization hereby acknowledges and agrees that should it hereafter make any claim or demand, or commence or threaten to commence any action, claim or proceeding against the Releasees for or by any reasons of any cause, matter or thing in connection with any of the claims released by virtue of this Agreement, this Agreement may be raised as an estoppel and complete bar to any such claim, demand, action or proceeding.

THE PARTICIPANT ORGANIZATION ACKNOWLEDGES THAT IT HAS READ AND UNDERSTOOD ALL OF THE TERMS OF THIS AGREEMENT AND THAT IT IS VOLUNTARILY WAIVING SUBSTANTIAL LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE THE CRCS AND THE RELEASEES.