

**NON-DISCLOSURE AGREEMENT**  
**Negotiations relating to the Assistive Devices Program**

**BETWEEN:**

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO**  
**as represented by**  
**the Minister of Health**

**(the “Ministry”)**

**-and-**

**[insert name of organization]**

**(the “Participant”)**

**WHEREAS:**

1. The Ministry has identified a need to engage in negotiations with organizations that wish to remain or become a vendor of home oxygen therapy devices and services (a “Vendor”) registered with the Ministry’s Assistive Devices Program (the “Negotiations”).
2. The Participant has agreed to partake in the Negotiations with the Ministry.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Ministry and the Participant agree as follows:

1. Definitions. In this Agreement, the following terms have the following meanings:

“*Agreement*” means this non-disclosure agreement between the Ministry and the Participant.

“*Confidential Information*”

- (a) includes all discussions and information obtained in preparation for or during the Negotiations, whether that information is provided by the Ministry, the Participant or another person;
- (b) includes all data and information in oral, written, graphic, recorded or any other form in connection with the Negotiations, including, without limitation, policy papers, briefing notes, meeting agenda, correspondence, e-mails, and stakeholder submissions, which may be provided to the Participant either directly or indirectly by the Ministry or any other person; and
- (c) does not include information that:
  - (i) is known to the public at the time such information is made available to the Participant other than through a breach of this Agreement;

- (ii) becomes known to the public after the time such information is made available to the Participant other than through a breach of this Agreement; or
- (iii) is required to be disclosed by applicable law; but prior to such disclosure and to the extent feasible, the Ministry shall be consulted as to the proposed form and nature of the disclosure.

“*FIPPA*” means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended or replaced from time to time.

2. General. During the term of the Agreement and after the termination of the Agreement, the Participant shall:

- (a) hold in confidence and treat as confidential all Confidential Information;
- (b) use the Confidential Information only as required to enable the Participant to prepare for and participate in the Negotiations, and not use the Confidential Information for any other purpose without receiving prior written authorization from the Ministry;
- (c) not disclose, directly or indirectly, to any third party any Confidential Information without receiving prior written authorization from the Ministry;
- (d) use Participants best efforts to protect the Confidential Information from theft, loss or any other unauthorized access, use or disclosure.
- (e) limit access to and use of the Confidential Information to those officers, directors and employees of the Participant who need to know the information to enable the Participant to prepare for and participate in the Negotiations;
- (f) ensure that every use of and access to the Confidential Information by authorized officers, directors and employees of the Participant is limited to the extent necessary to enable the Participant to prepare for and participate in the Negotiations; and
- (g) ensure that each authorized officer, director and employee of the Participant who has access to the Confidential Information is aware of and complies with the requirements and obligations in this Agreement.

3. Media. The Participant shall not communicate with any member of the media or the public about the Negotiations, except with the prior written authorization of the Ministry. The Ministry’s written authorization may be subject to such conditions as deemed necessary by the Ministry, including a requirement that any communication to the media or the public be in the form of a joint communication agreed to by the Ministry and the Participant.

4. Crown Ownership. All Confidential Information that is recorded in any form shall remain the sole and exclusive property of the Ministry. The Ministry may demand the return of any Confidential Information, and the Participant shall promptly return it, any copy of it and any document containing any Confidential Information.

5. Personal Notes. Despite section 4, any personal notes, emails or other written materials created by the Participant in preparation for or during the Negotiations (“Participant Notes”) shall remain in the sole custody and control of the Participant, and shall not be considered to be under the control of the Ministry. If the Ministry receives an access request under FIPPA for records relating to the Negotiations, the Ministry will not ask the Participant to provide its Participant Notes to the Ministry for the purposes of the access request.
6. Notice. The Participant shall promptly notify the Ministry of any breach or potential breach of this Agreement.
7. Term and Survival. This Agreement shall commence on **September 18, 2023** and will remain in effect unless terminated in writing by the Ministry. Without restricting the generality of the foregoing, this Agreement shall survive the completion of the Participant’s participation in the Negotiations.
8. Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws applicable therein.
9. Notices By Prescribed Means. Any notice required under this Agreement shall be in writing, delivered in person or by mail, facsimile or email, and addressed to the other party as provided below or as either party shall later designate to the other in writing:

<p>To the Ministry:  Ministry of Health  Health Programs and Delivery Division  Assistive Devices Program  7<sup>th</sup> Floor, 5700 Yonge Street  Toronto ON  M2M 4K5</p> <p>Attention: Signy Frederickson</p> <p>Telephone: 437-885-5512  Email: Signy.Frederickson@ontario.ca</p>	<p>To the Participant:  [Insert name of organization]  [insert mailing address]</p> <p>Attention: [insert contact person]</p> <p>Telephone: [insert phone number]  Email: [insert email]</p>
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10. Counterpart Execution. The parties may execute this Agreement by fax or email transmission in one or more counterparts, each of which will be deemed an original instrument, and all executed counterparts together will constitute one agreement.

IN WITNESS WHEREOF THE PARTIES hereto have executed this Agreement on the Execution Date set out below.

<b>HIS MAJESTY THE KING IN RIGHT OF ONTARIO as represented the Minister of Health</b>	<b>[Name of Organization]</b>
Name: David Schachow Title: Director, Delivery and Eligibility Review Branch.	Participant Name: Title: "I have the authority to bind the Participant"
Date of Signature (Execution Date)	Date of Signature