

**PROVINCIAL ANTIGEN SCREENING PROGRAM**  
**TERMS OF USE AGREEMENT – ELIGIBLE BUSINESS**

(hereinafter the “**Agreement**”)

**BETWEEN:**

**The Greater Kingston Chamber of Commerce**

(hereinafter “**Chamber**”)

and

\_\_\_\_\_

(hereinafter “**Business**”)

(collectively the “**Parties**”)

**Overview:**

- To assist in facilitating private sector workplace screening, the Chamber has partnered the federal and provincial governments to assist in the distribution of approved COVID-19 Rapid Testing Devices, (collectively the “**Devices**”) to private businesses seeking to implement Point of Care screening (“**Rapid Antigen Screening**”) at their workplaces.
- As the Business has resumed operations, or in order to continue operating, the Business has expressed interest in privately conducting asymptomatic testing and/or offering testing to employees who are not eligible for publicly-funded testing under the current COVID-19 Provincial Testing Guidance framework.<sup>1</sup>

**Accordingly, the Chamber has agreed to provide the Business with Rapid Antigen Screening kits in accordance with the following terms:**

1. The Devices provided to the Business pursuant to the Program are provided free of charge, on an “as-is” basis, without warranties, express or implied, or representations as to accuracy, reliability, or functionality. Other than any warranty provided by the manufacturer, the Chamber disclaim any and all representations, warranties and conditions, whether express, implied, written or oral, in relation to the Devices, including fitness for use for any particular purpose.
2. The Business acknowledges that Rapid Antigen Screening is not considered to be an effective, preventive measure for COVID-19 on its own, and does not replace public health strategies such as symptom screening, physical distancing and other requirements under applicable provincial guidelines and law, including pursuant to the *Reopening Ontario (A Flexible Response to COVID-*

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<sup>1</sup> Ministry of Health – COVID-19 Provincial Testing Guidance Update. Revision: March 5, 2021 - [https://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/docs/2019\\_testing\\_guidance.pdf](https://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/docs/2019_testing_guidance.pdf)

19) Act, 2021 (“ROA”), the *Health Protection and Promotion Act* (“HPPA”), the *Occupational Health and Safety Act* (“OHSA”), the *Emergency Management and Civil Protection Act* (“EMCPA”), or any other applicable legislation.

3. Availability of Devices is subject to distribution plans and mechanisms imposed by the federal and provincial governments, that are beyond the Chamber’s control. The Chamber make no guarantees regarding the availability or volumes of Devices.
4. The Business shall be **SOLELY AND EXCLUSIVELY RESPONSIBLE** for meeting all compliance requirements that govern private sector Rapid Antigen Screening under Ontario law, including:
  - a. The Business will be solely responsible for ensuring that all staff members or persons responsible for administering Rapid Antigen Screening at their workplace have met all applicable training requirements designated by the Ministry of Health, including but not limited to, the specific training materials for Rapid Antigen Screening listed on the COVID-19 Health System Response Materials website<sup>2</sup>.
  - b. Any applicable legislative requirements under the HPPA, including with respect to the authorized collection, retention, use and disclosure of Personally Identifiable Information (“PII”), including Personal Health Information (“PHI”);
  - c. Any applicable legislative requirements under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2021* (“ROA”);
  - d. Any applicable legislative requirements under the *Emergency Management and Civil Protection Act* (“EMCPA”);
  - e. Any applicable legislative requirements under the *Occupational Health and Safety Act* (“OHSA”).
5. The Business will ensure that Devices provided to the Business by the Chamber are used ONLY for the purposes of screening persons who may be required to enter the Business’ physical workplace, or any authorized use permitted by the Program.
6. Devices provided to the Business by the Chamber shall not be resold or distributed to any other person, under any circumstances, or used for any purpose other than any purpose related to the Program. If the Business no longer requires Devices provided to the Business pursuant to the Program, it will notify Karen Cross at [info@kingstonchamber.ca](mailto:info@kingstonchamber.ca) to arrange for immediate retrieval of unused Devices.
7. Any failure by the Business to meet the terms of this Agreement, including without limitation compliance with the reporting obligations identified at paragraphs 4 and 5 herein, will result in the Business’ future inability to participate in the Program.
8. The Business agrees to indemnify and release the Chamber, including all current and former parents, subsidiaries, related companies, partnerships, or joint ventures and, with respect to each of them, their predecessors and successors; and, with respect to each such entity, all of its past, present, and future employees, officers, directors, stockholders, owners, representatives, assigns, attorneys, agents, insurers, and any other persons acting by, through, or in concert with any of the persons or entities listed in this provision, of and from any and all liability for any purpose related to

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<sup>2</sup> Ministry of Health - COVID-19 Health System Response Materials - <https://www.ontariohealth.ca/COVID-19/Health-System-Response-Resources#panbio>

the implementation of the Program and/or any issues, claims, actions, demands or legal proceedings of any sort, which may be related to the Program. For greater certainty, the Business shall be solely responsible for any and all claims, causes of action, demands, liabilities, and expenses (including legal costs) with respect to the Business' implementation of Rapid Antigen Screening at its workplace.

9. This Agreement is made under and shall be construed according to the laws of the province of Ontario and the laws of Canada applicable therein.

**ACKNOWLEDGEMENT PAGE FOLLOWS**

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**ACKNOWLEDGEMENT**

By signing and providing the required information below, the signatories confirm both the acceptance of this Agreement and that they are authorized to bind the respective Parties to the terms of this Agreement.

On behalf of the Greater Kingston Chamber of Commerce:

**Employee Name & Position**

**Employee Signature:**

\_\_\_\_\_

\_\_\_\_\_

I am authorized to bind the Chamber.

On behalf of the Business/Organization:

**Name & Position (Please print)**

**Signature:**

\_\_\_\_\_

\_\_\_\_\_

I am authorized to bind the Business.

**Business Name:**

**Business Address:**

\_\_\_\_\_

\_\_\_\_\_

**Size of Workforce:** \_\_\_\_\_

\_\_\_\_\_

**Date:** \_\_\_\_\_, 2022

\_\_\_\_\_

**Email: (please print)**

**Telephone Number:**

\_\_\_\_\_

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**SCHEDULE "A"**

**Attach current copy:**

MOH Appendix\_MARCH2022.docx

(Separate document)