

## EXTRA-MURAL PROGRAM SERVICES AGREEMENT

**THIS AGREEMENT** is effective as of the 1<sup>st</sup> of January 2018.

BETWEEN : **HER MAJESTY THE QUEEN IN  
RIGHT OF THE PROVINCE OF NEW  
BRUNSWICK AS REPRESENTED BY  
THE MINISTER OF HEALTH,**  
(hereinafter called the "Minister")

OF THE FIRST PART

and

**EM/ANB INC.** (hereinafter called  
"EM/ANB")

OF THE SECOND PART

WHEREAS the Minister is vested with authority under the *Regional Health Authority Act* RSNB, 2011 Ch. 217, as amended, to provide extra-mural program services;

WHEREAS section 13(f) of the *Regional Health Authority Act* permits the Minister to enter into agreements respecting the provision of extra-mural program services;

AND WHEREAS EM/ANB is a duly incorporated company under the laws of the Province of New Brunswick having the necessary corporate power and authority to undertake the matters contained herein;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties agree as follows:

### ARTICLE 1. INTERPRETATION

#### 1.1 Definitions

In this Agreement:

- (a) "Act" means the *Regional Health Authority Act* RSNB, 2011 Ch. 217, as amended;
- (b) "Extra-Mural Program Services" means the provision of extra-mural program services prescribed by regulation that are provided to a person at the person's place of residence, the person's place of work or another place in the community by a person other than a regional health authority under an agreement with the Minister;
- (c) "Business Day" means a day other than Saturday, Sunday or a holiday under the laws of New Brunswick;
- (d) "Fiscal Period" means the twelve month period commencing April 1<sup>st</sup> in any year and ending March 31<sup>st</sup> of the year following;

- (e) "Fiscal Year End" means March 31<sup>st</sup> in each year;
  - (f) "Minister" means the Minister of Health and includes the Director of Home Care Services and any other employee designated by the Minister to act on his behalf in matters relating to this Agreement; and
  - (g) "Regulation" means the regulations from time to time promulgated under the Act.
- 1.2 Where the context permits, words importing the singular shall also include the plural, words importing the masculine gender shall include the feminine and neuter genders, words importing persons shall include firms, associations and corporations and, respectively, vice versa.
- 1.3 Section and paragraph headings used herein are for convenience of reference only and shall not be deemed to be part of this Agreement or be taken into consideration in interpreting or construing it.
- 1.4 Words and abbreviations used in this Agreement which have a recognized technical or trade meaning have such recognized meaning.

**ARTICLE 2.  
TERM OF AGREEMENT**

- 2.1 This Agreement commences on January 1, 2018 and continues indefinitely unless terminated as provided for herein.
- 2.2 This Agreement may be terminated by either party by giving the other party six months written notice of its desire to terminate the Agreement.

**ARTICLE 3.  
EM/ANB'S RESPONSIBILITIES**

- 3.1 EM/ANB agrees to provide Extra-Mural Program Services for New Brunswick in accordance with the terms and conditions of this Agreement, the laws of New Brunswick, and all standards and policies for Extra-Mural Program Services in effect in the Province of New Brunswick from time to time.
- 3.2 In providing Extra-Mural Program Services, EM/ANB shall:
- (a) provide patient care on a 24 hour basis, 365 days of the year, including but not limited to the geographic area of New Brunswick;
  - (b) retain such personnel as are required to effectively provide Extra-Mural Program Services in accordance with this Agreement;
  - (c) ensure provision and maintenance of all assets including vehicles, equipment, supplies, and facilities required to provide Extra-Mural Program Services either by owning, leasing or contracting for them and ensure immediate ownership of the assets upon termination of any lease or contract;
  - (d) ensure appropriate insurance;
  - (e) maintain books and records in accordance with generally accepted accounting principles, consistently applied, together with all documents pertaining to the provision of Extra-Mural Program

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Services within NB and open to inspection by the Minister at all reasonable times;

- (f) report in a format prescribed by the Minister on its financial position for the previous Fiscal Period by June 30th of the following Fiscal Period through the provision of an audited financial statement;
- (g) not incur a deficit;
- (h) appoint an auditor to audit the records, accounts and financial transactions of EM/ANB annually;
- (i) prepare and submit to the Minister in a format prescribed by the Minister quarterly performance reports as well as an annual report on its activities which addresses the previous Fiscal Period by June 30th of the following Fiscal Period;
- (j) provide all reports required under the *Accountability and Continuous Improvement Act* SNB 2013, c. 27; and
- (k) prepare and submit to the Minister such reports, records and documents that the Minister may require from time to time within the time and in the form specified by the Minister.

#### **ARTICLE 4. MINISTER'S RESPONSIBILITIES**

- 4.1 The Minister is responsible to:
- (a) plan, fund, regulate (including setting standards) and monitor Extra-Mural Program Services;
  - (b) provide policy, clinical and medical direction for Extra-Mural Program Services and establish related protocols;
  - (c) participate in labour negotiations respecting employees of EM/ANB as required;
  - (d) establish reporting and audit requirements; and
  - (e) establish media protocols.
- 4.2 The Minister shall provide funding to EM/ANB for the purposes of this Agreement. For greater certainty, such funding shall include the obligation to provide EM/ANB with sufficient funds to satisfy the termination provisions of any agreement entered into by EM/ANB with the express knowledge and consent of the Minister, including without limiting the generality of the foregoing an agreement between EM/ANB and Medavie Health Services NB Inc. entered into on even date herewith.
- 4.3 The Minister may assume responsibility for all or part of EM/ANB's property. If the Minister assumes such responsibility EM/ANB shall not maintain insurance coverage for the protection of that property.

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**ARTICLE 5.  
FINANCIAL COMPENSATION AND ADMINISTRATION**

- 5.1 EM/ANB shall :
- (a) on or before April 30<sup>th</sup> of each year provide to the Minister in a manner and form prescribed by the Minister a preliminary unaudited financial statement for the previous Fiscal Period;
  - (b) provide to the Minister in a manner and form prescribed by the Minister monthly financial statements; and
  - (c) on or before October 30<sup>th</sup> of each year provide to the Minister in a manner and form prescribed by the Minister a budget proposal for the following Fiscal Period.
- 5.2 Where EM/ANB has provided Extra-Mural Program Services in accordance with the terms and conditions of this agreement and provided to the Minister all information required by this Agreement, the Minister shall make to EM/ANB such payments as may be required for the purposes of Fiscal Year End adjustments.

**ARTICLE 6.  
ANNUAL REPORT**

- 6.1 EM/ANB shall submit to the Minister an annual report containing:
- (a) a report on the activities of EM/ANB;
  - (b) a report on EM/ANB's performance
  - (c) a summary of the audited financial statements; and
  - (d) such other information as the Minister may require.
- 6.2 EM/ANB shall appear before the Standing Committee on Crown Corporations of the Legislative Assembly of New Brunswick if requested to do so by that Committee.

**ARTICLE 7.  
INDEMNIFICATION**

- 7.1 Members of the Board of Directors of EM/ANB will be indemnified and saved harmless out of the funds of EM/ANB with respect to all costs, charges and expenses that the member incurs in relation to any action or other proceeding brought or prosecuted against the member in connection with the duties of the person as a member of the board and with respect to all other costs, charges and expenses the member incurs in connection with those duties, costs, charges and expenses that are occasioned by the member's own willful neglect or willful default.

**ARTICLE 8.  
MISCELLANEOUS**

- 8.1 This Agreement is governed and construed in accordance with the laws of the Province of New Brunswick.

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- 8.2 No amendment, modification or waiver of this Agreement is effective or binding unless in writing signed by both parties.
- 8.3 The parties to this Agreement will with reasonable diligence do all things and provide all reasonable assurances as may be required to complete the matters and things contemplated by this Agreement and each party will provide such further documents and other instruments as may be reasonably necessary to give effect to this Agreement.
- 8.4 No act or failure to act or delay in the enforcement of any right by any party will constitute a waiver of any right under this Agreement, and any such act, failure to act or delay will not constitute an approval of or acquiescence in any breach or continuing breach under this Agreement except as expressly agreed in writing and no waiver of any breach of any provision of this Agreement will constitute a waiver of any preceding or succeeding breach of such provision or any other provision.
- 8.5 This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and any and all commitments of any negotiations, warranties, representations, assurances and commitments of any kind, whether oral or written, expressed or implied, which are not expressly set forth in this Agreement are cancelled, null and void.
- 8.6 In the event that any provision of this Agreement, or part thereof, is determined to be invalid, void or otherwise unenforceable, the remaining provisions will, provided that the Agreement remains capable of performance in all material respects as contemplated hereunder, be construed as if such invalid, void or unenforceable provision, or part thereof, was omitted and this Agreement will continue in full force and effect without being impaired or invalidated in any way and the parties agree to be bound by and perform the same thus modified.
- 8.7 All covenants, warranties, obligations, indemnities and provisions of this Agreement which expressly or by their nature require observance or performance by EM/ANB or by the Minister after the expiration or other termination of this Agreement, will continue in full force and effect subsequent to and notwithstanding such expiration or other termination until they are satisfied in full or by their nature expire.
- 8.8 This Agreement is subject to changes in legislation, regulations standards or any policy change which may be approved by the Minister from time to time and the Minister will not be liable or responsible for any costs, expenses or losses of any nature or kind which EM/ANB may incur as a result of such changes in legislation, regulations, standards or policies approved from time to time unless specifically provided for pursuant to the terms and conditions of this Agreement.
- 8.9 All notices will be given in writing, by personal delivery, by registered mail, postage prepaid, by courier prepaid, or by telex, telecopy or other similar written and immediate means of communication addressed to or delivered to such other party at the address appearing below. Notice delivered personally will be deemed communicated as of actual receipt; if delivered by mail or courier, as of three Business Days following mailing or couriating; and if sent by telex, telecopy or other similar means, on the day of transmission if sent prior to 3:00 p.m. (local recipient time) on a Business Day and, if not, on the next Business Day of the recipient.

In the event of a disruption of postal service in any relevant location, delivery is not be made by mail.

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To EM/ANB as follows:

EM/ANB Inc.  
P. O. Box 6000  
Fredericton, NB  
E3B 5H1  
Attn: Chair of the Board of Directors

To the Minister as follows:

Director, Home Care Services  
Department of Health  
Primary Health Care Branch  
P.O. Box 5100  
520 King Street  
Fredericton, N.B.  
E3B 5G8

Any party may change its address by giving notice to the other in accordance with this Article.

8.10 EM/ANB shall not, without the Minister's prior written consent, directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, sell, assign, transfer, encumber or convey to anyone its interest in this Agreement or offer to do or permit anyone to assume control of the Extra-Mural Program Services which are the subject of this Agreement and any such transaction contrary to this paragraph constitutes a default under this Agreement. EM/ANB agrees that where it wishes to assign or sell its rights under this Agreement to another party, it must request and receive approval from the Minister in writing no less than sixty (60) calendar days prior to the date of the proposed assignment or sale. Notwithstanding the generality of the foregoing, the Minister acknowledges and consents to EM/ANB entering into an agreement between EM/ANB and Medavie Health Services New Brunswick for the provision of Extra-Mural Program Services which agreement is entered into on even date herewith.

**IN WITNESS WHEREOF** the parties have duly executed this Agreement on the day and year first above written.

**Signed, Sealed And Delivered**  
In the presence of:

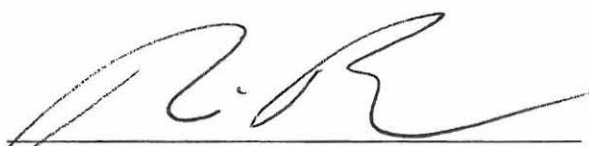
) **HER MAJESTY THE QUEEN IN**  
) **RIGHT OF THE PROVINCE OF NEW**  
) **BRUNSWICK AS REPRESENTED**  
) **BY THE MINISTER OF HEALTH**

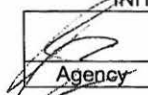
  
\_\_\_\_\_  
Witness

)   
) \_\_\_\_\_  
) Minister of Health

) **EM/ANB INC.**

  
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) \_\_\_\_\_  
) **Per: Rene Boudreau**  
) **Board Chair**

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