

## EXECUTIVE EMPLOYMENT AGREEMENT

THIS AGREEMENT made as of this 19th day of April 2018,

BETWEEN:

**Orillia Soldiers' Memorial Hospital**

(the "Hospital")

- and -

**Carmine Stumpo**

(the "Executive")

**WHEREAS** the Hospital wishes to employ the Executive as President and Chief Executive Officer and the Executive wishes to be employed by the Hospital in that capacity and upon the terms set forth in this agreement;

**THEREFORE IN CONSIDERATION** of the respective promises and covenants contained herein the parties agree as follows:

### 1. **RESPONSIBILITIES**

#### (a) **Position and Accountability**

The Executive shall render full-time services to the Hospital in the position of President and Chief Executive Officer or such other job title as the parties may agree to from time to time. The Executive is directly accountable to the Hospital's Board of Directors (the "Board") through the Chair of the Board.

#### (b) **Duties**

The Executive shall perform, to the best of his ability and capability, the duties and responsibilities of the position as set out in the job description for the position attached as Schedule A (which may be amended from time to time by the Board of Directors in keeping with the role of the Executive as President & CEO of the Hospital) and such duties and responsibilities as the Board may from time to time reasonably direct, in compliance with the *Public Hospitals Act*, other applicable laws, the Hospital's by-laws and its policies, procedures, rules and regulations.

## 2. TERM

### (a) Term

The term of this agreement shall be effective upon date of execution and continue for an indefinite term subject to the termination provisions set out in Paragraph 8 herein.

## 3. COMPENSATION

### (a) Applicable Legislation

The Executive's compensation, benefits, and any other remuneration is subject to and may be amended pursuant to all current and future applicable legislation and directives, including but not limited to the *Excellent Care for all Act, 2010*, the *Broader Public Sector Accountability Act, 2010*, the *Broader Public Sector Executive Compensation Act, 2014* and any compensation frameworks established or created pursuant to the *Broader Public Sector Executive Compensation Act, 2014* and O. Reg. 304/16 thereunder.

### (b) Salary

The Hospital agrees to pay the Executive a fixed annual salary of \$267,147 per annum (the "Base Salary") less deductions required by law, which shall be payable in equal bi-weekly installments. This is step four of our five-step CEO salary grid. Any adjustments to salary and other benefits paid to the Executive, which may include performance pay, shall be mutually agreed between the Executive and the Board on the one year anniversary date for the succeeding twelve month period, only when and as permitted under applicable laws, policies, procedures, rules and regulations.

### (c) Performance Pay

In accordance with the requirements of the *Excellent Care for all Act, 2010* as well as the Hospital's Executive Compensation Program under O. Reg. 304/16, a percentage of Base Salary is linked to the success in achieving key objectives in the Hospital's Quality Improvement Plan. The performance pay maximum (if all QIP objectives are achieved) is 5% of fiscal year earnings. In the event that the Hospital determines that all or some of these fees will be paid out to the Executive, such payment will be made within 120 days after the conclusion of the fiscal year.

#### **Performance Review**

Within forty-five (45) days after the commencement of employment for the initial period, and thereafter within forty-five (45) days of the first (1<sup>st</sup>) day of April of each year of employment, the Chair and such other members of the Board as the Board may direct (the "Directors") shall meet with the Executive to conduct a performance review (the "Performance Review") and to mutually agree upon the key goals and objectives for the Executive for the year. The Performance Review will be conducted in accordance with the Hospital's CEO performance review policy. The Performance Review will, among other things, assess the Executive's success in achieving the goals and objectives

established for him in respect of the initial twelve (12) months of his employment, and in respect of the most recently completed year thereafter.

**(d) Transition and Relocation Expenses**

The Executive agrees to maintain a residence within the community of Orillia or surrounding area. Upon submission of suitable receipts to the Chair of the Board, the Executive shall be reimbursed for reasonable transition expenses (including any legal fees that the Executive may incur under paragraph 18 hereof) and related expenses for relocation up to a total maximum of \$12,500 subject to review and approval in accordance with the provisions of the Broader Public Sector Expenses Directive, CRA guidelines, and any other applicable laws or directives. Should the Executive resign from his employment with the Hospital for any reason, save as a result of actual or constructive dismissal by the Hospital, prior to the expiration of twenty-four (24) months of continuous employment, he will reimburse the Hospital for such expenses reimbursed under this paragraph on a pro rata basis, calculated monthly, for the unexpired portion of the twenty-four (24) month term.

**4. BENEFITS AND RELATED POLICIES**

**(a) Reimbursement of Expenses**

It is understood and agreed that the Executive will incur expenses in connection with the performance of his duties under this Agreement. The Hospital will reimburse the Executive for any reasonable expenses (including automobile expense reimbursed in accordance with the Hospital's policy for reimbursement of automobile expense) actually incurred in connection with performing his duties under this Agreement provided that the Executive gives the Hospital an itemized written account and receipts acceptable to the Hospital within forty-five (45) days after they have been incurred. Expenses will be subject to review and approval in accordance with the provisions of the Broader Public Sector Expenses Directive and any other applicable laws or directives, and shall be approved in writing by the Board Chair or Vice-Chair.

**(b) Benefit Plans**

The Executive shall, subject to meeting the insurability and other applicable requirements, be eligible to participate in the benefit plans and programs the Hospital has in place for full-time senior administrative personnel, including but not limited to HOOPP, dental, group life insurance and extended health benefits. The Hospital reserves the right to alter or amend the benefit plans from time to time and participation in the plans is subject to the applicable terms and provisions of the plan as set out by the carrier and as amended from time to time.

Notwithstanding any other provision of this Agreement, the Executive shall also be permitted to take one (1) additional week (Management Compensation Time) of paid time off work each calendar year that shall not be considered to be part of his annual vacation entitlement.

**(c) Annual Vacation Entitlement**

The Executive is entitled to five (5) weeks of vacation per year. Notwithstanding any Hospital policy or practice to the contrary, vacation time may not be carried over into subsequent years and must be taken in the year in which it is earned, unless otherwise agreed to in writing by the Board Chair. The Executive will take vacation at a time or times mutually agreeable to the Executive and the Hospital, and all vacation must be approved in advance by the Hospital.

**(d) Paid Holidays**

The executive shall be entitled to twelve (12) paid holidays as set out in the Hospital's policies and procedures.

**(e) Professional Dues and Memberships**

The Hospital agrees to pay membership fees for the Executive's professional memberships, including CCHSE and such other organizations or associations as may be chosen by the Executive, up to an annual total aggregate amount of \$3,500.00, subject to review and approval by the Board Chair and in accordance with the provisions of the Broader Public Sector Expenses Directive and any other applicable laws or directives.

**(f) Communications and Information Technology**

The Hospital will provide the Executive with technology necessary to fulfill his duties including wireless telephone, electronic mail, internet and personal computer technology to facilitate required communication between the Executive and the Hospital.

**(g) Seminars and Conferences**

The Executive will be permitted to be absent from the Hospital during working days to attend professional development meetings and conferences and to attend to such outside professional duties in the Hospital field as have been mutually agreed upon between the Executive and the Board Chair. Attendance at such approved meetings and accomplishment of approved professional duties shall be considered fully compensated service time. Conference attendance shall require the prior written approval of the Board Chair or Vice-Chair.

**5. AUTHORITY**

The Executive shall, subject to the general or specific instructions and directions of the Board and the by-laws and policies of the Hospital including any limitations, have full power and authority to lead, manage and direct the operational business and affairs of the Hospital, including power and authority to enter into contracts, engagements or commitments relating to the Hospital's operations of every nature or kind in the name of and on behalf of the Hospital and to engage and employ and to dismiss all managers and other employees and agents of the Hospital, provided that the Executive shall not hire or dismiss any member of the senior management team of the Hospital without informing and obtaining the prior approval of the Board Chair.

## 6. SERVICE

### (a) **Full Time and Attention**

The Executive shall devote full time and attention to the business of the Hospital and shall not, without the prior consent in writing of the Board, undertake any other business or occupation or become a director, officer, executive or agent or any other company, firm or individual. The Executive acknowledges that this position will include the carrying out of his duties in the evenings and weekends, as may be required from time to time, in addition to regular business hours.

### (b) **Confidentiality**

In carrying out his duties, the Executive shall faithfully serve the Hospital and use his best efforts to promote its interests. The Executive shall maintain the confidentiality of any confidential information (including information about the Hospital's practices, employees or patients) during and following the term of his employment, and shall not disclose any confidential information except as required to perform his duties hereunder or as required by law. Confidential information does not include information which was in the public domain other than by reason of acts or omissions by the Executive or lawfully received in good faith from a third party lawfully in possession of same and entitled to disclose same. The Executive may disclose confidential information of the Hospital pursuant to the lawful requirement of a court or government agency of competent jurisdiction without condition of confidentiality, provided that the Hospital is notified in advance of the specifics of the disclosure.

The Executive will strictly observe the right to privacy and confidentiality of any Hospital patient and any employee. In addition, the Executive will comply with all relevant requirements, including but not limited to the *Public Hospitals Act* (Ontario), and any other applicable legislation and regulations thereunder with respect to the confidentiality of medical records.

### (c) **Press Release or Communication**

The parties will make best efforts in advance upon any appropriate communication and/or press releases to announce the commencement or termination of this Agreement.

## 7. OFFICER INSURANCE & INDEMNIFICATION

### (a) **Insurance**

The Hospital shall insure the Executive under its general liability insurance policy for directors and officers for all acts done by him in good faith in performing his duties as Executive throughout the term of this Agreement.

### (b) **Indemnity**

The Executive shall be indemnified by the Hospital as provided in the Hospital's by-laws, as amended by the Board and the members of the Hospital Corporation from time to time.

## **8. TERMINATION OF EMPLOYMENT**

### **(a) Termination by Executive**

The Executive may resign prior to the end of the Term, upon giving a minimum of ninety (90) days advance written notice to the Hospital. The Executive will not be entitled to receive any further compensation or benefits whatsoever other than those which have accrued up to the Executive's last day of active service with the Hospital. At the request of the Executive the Hospital may, at its discretion, waive in whole or in part such notice without further payment to the Executive, except as may be required by applicable employment standards legislation.

### **(b) Termination by Hospital for Just Cause**

The Hospital shall be entitled to terminate this Agreement at any time without notice by written notification or payment in lieu thereof, except as may be minimally required by applicable employment standards legislation, if the conduct of the Executive is such as to constitute just cause (as defined by common law) for dismissal.

### **(c) Termination by Hospital Without Cause**

The Hospital shall be entitled to terminate this Agreement at any time without cause by providing the Executive with prior written notice or a payment in lieu of notice, or a combination thereof, of twelve (12) months plus an additional one month for each completed year of service in the role of President & CEO from the date of this Agreement, to a total maximum of twenty-four (24) months (the "Continuation Period"), as well as any arrears of monies owing to the Executive up to the date of termination, subject to the Executive's obligation to mitigate described herein. Payments during the Continuation Period shall be calculated based on Base Salary, and shall be payable in equal bi-weekly installments until the earlier of (i) the expiry of the Continuation Period, or (ii) upon the Executive obtaining alternative employment. "Alternative employment" shall mean employment, including self-employment, of a permanent nature with annual earnings equivalent to at least 80% of the Executive's Base Salary under this Agreement as of the time of termination of the Executive's employment. The Executive agrees that payments during the Continuation Period are subject to the Executive's obligation to make reasonable attempts to mitigate damages by diligently searching for alternative employment during the Continuation Period. The Executive shall immediately notify the Hospital in writing once alternative employment has been obtained, and agrees to promptly respond to all Hospital inquiries regarding the search for alternative employment.

The Executive will also be provided with a continuation of certain employment related benefits for the duration of the Continuation Period or until the Executive finds alternative employment, if earlier. Those benefits to be continued include: HOOPP, dental, group life insurance and extended health benefits. However, both short and long term disability benefit coverage will be discontinued at the end of the minimal statutory notice period required by applicable employment standards legislation. To the extent provided, continued coverage pursuant to the aforementioned benefit plans will be conditional on the Executive satisfying the terms and conditions required by the individual insurance providers in accordance with issued policies.

The Executive acknowledges that the payments provided pursuant to this section supersede and replace any and all rights to reasonable notice of termination that the Executive might otherwise be entitled to under common law. The Executive agrees that the payments include all amounts owing for termination and/or severance pay under any contract, statute, common law or otherwise. Any severance pay required by applicable employment standards legislation will be provided to the Executive in a lump sum, less applicable deductions. In no event shall the Executive receive less than his minimum entitlements under applicable employment standards legislation. In the event of a conflict between this Agreement and applicable employment standards legislation, the applicable employment standards legislation shall prevail.

**(d) Other Cessation of Employment**

This Agreement and the Executive's employment with the Hospital will be deemed to have ceased, without further obligation by the Hospital whether under contract, statute, common law or otherwise, if the Executive dies, or if the Executive is unable to perform substantially all of the Executive's employment related duties for a period of more than either three (3) consecutive months, or six (6) months in the aggregate during any nine (9) month period. Failure by the Hospital to strictly rely upon this provision in any given instance or instances shall not in any way constitute a waiver of the Hospital's rights as stated herein.

**(e) Obligations Upon Termination of Employment**

Upon termination or expiry of this Agreement for any reason, the Executive acknowledges that all items of any kind created or used by him pursuant to his employment or furnished by the Hospital to him including, but not limited to, all equipment, books, records, credit cards, reports, files, CDs, manuals, literature, confidential information, or other materials shall remain and be considered the exclusive property of the Hospital at all times, and shall be surrendered to the Board, in good condition, promptly without being requested to do so.

**9. NOTICES**

- (a) Any notice to be given to the Executive shall be delivered to the Executive personally or mailed by registered mail to the Executive's address last known to the Hospital.
- (b) Any notice to be given to the Hospital shall be mailed by registered mail to the Hospital as its address last known to the Executive or delivered personally to the Board Chair.

**10. SEVERABILITY AND EMPLOYMENT STANDARDS**

If any covenant or provision of this Agreement is determined to be void or unenforceable in whole or in part by any court, such determination shall not affect or impair the validity of any other covenant or provision of this Agreement, which shall remain in full force and effect as if the void or unenforceable covenant or provision had not been made part of this Agreement. Further, all covenants, provisions and restrictions in this agreement shall be interpreted in accordance with applicable employment standards legislation, and if a greater entitlement is

provided for under such legislation than as set out in any covenant, provision or restriction of this agreement, that greater entitlement shall prevail, the Executive's entitlements shall be increased only to the extent necessary to satisfy such greater entitlement, and the Hospital will provide such greater entitlement.

**11. WAIVER**

The failure of either party at any time to require performance by the other party of any provision hereof shall in no way affect the full right to require such performance at any time thereafter, nor shall a waiver by either party of the breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

**12. GOVERNING LAW**

This Agreement shall be governed and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**13. ENTIRE AGREEMENT**

This Agreement contains the entire agreement of employment between the parties hereto and supersedes all previous negotiations, representations, understandings and agreements, whether oral or written, express or implied, with respect to the subject matter herein.

**14. AMENDMENT OF AGREEMENT**

Any modification to the Agreement must be in writing and signed by the parties or it shall have no effect.

**15. ASSIGNMENT**

This Agreement shall not be assigned by either party without the written consent of the other. This Agreement shall inure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors and permitted assigns.

**16. TIME**

Time shall be of the essence in this Agreement.

**17. HEADINGS**

The headings used in this Agreement are for convenience only and are not to be construed in any way as additions to or limitations of the agreement.

**18. INDEPENDENT LEGAL ADVICE**

The Executive confirms that, prior to the execution of this Agreement, he had a full and complete opportunity to obtain independent legal advice and representation and that he has done so. The Executive further acknowledges and agrees that he has had sufficient time to review and consider this Agreement, and that the Executive has read this Agreement and



fully understands its terms and obligations. Further, the Executive confirms that he is entering this Agreement freely, voluntarily and without duress.

IN WITNESS WHEREOF the parties have executed this Agreement in counterparts, each of which when delivered, either in original or facsimile form, shall be deemed to be an original and all of which together shall constitute one and the same agreement.

[Redacted Signature]

WITNESS

Print Name:

Fiona MacKinnon

[Redacted Signature]

CARMINE STUMPO

Date:

Apr. 20/2018

**ORILIA SOLDIER'S MEMORIAL HOSPITAL**

By:

[Redacted Signature]

Daniel German  
Chair of the Board

Date:

April 20/18