

## EXECUTIVE EMPLOYMENT AGREEMENT

THIS AGREEMENT made as of this 12<sup>th</sup> day of December, 2022

B E T W E E N:

**Orillia Soldiers' Memorial Hospital**

(the "Hospital")

- and -

**Jill Colin**

(the "Executive")

**WHEREAS** the Executive commenced employment with the Hospital on November 17, 2014;

**AND WHEREAS** the Executive and the Hospital are parties to an Employment Agreement which was executed on April 1, 2019 under which the Executive was promoted to the position of Chief Nursing Executive and Program Director;

**AND WHEREAS** the Hospital undertook a reorganization of its executive responsibilities which, as of May 16, 2022 (the "Effective Date"), has resulted in significant changes to the Executive's duties and responsibilities and a promotion to the position of Vice President, Patient Care and Chief Nursing Executive;

**AND WHEREAS** the Hospital and the Executive wish to formalize this promotion on the terms and conditions hereinafter provided;

**NOW 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 Vice President, Patient Care and Chief Nursing Executive or such other job title as the parties may agree to from time to time. The Executive is directly accountable to the Hospital's President and Chief Executive Officer (CEO).

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

The Executive shall perform, to the best of her 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 President & CEO of the Hospital) and such duties and responsibilities as the President & CEO 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 Executive's employment as Vice President, Patient Care and Chief Nursing Executive shall be for an indefinite term with a recognized service date of **November 17, 2014** (the "Service Date"), and shall continue until otherwise terminated in accordance with the provisions as set out at paragraph 8 of this Agreement.

## 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 **\$198,075** per annum (the "Base Salary") less deductions required by law, which shall be payable in equal bi-weekly installments. The Executive shall be retroactively compensated for the difference between this salary and her previous salary, prorated for the period between the Effective Date and the date on which this agreement is executed.

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 President & CEO effective April 1<sup>st</sup> for the succeeding twelve (12) 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.

### (d) Performance Review

Each year the Executive will meet with the President & CEO 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 performance review policy. The Performance Review will, among other things, assess the Executive's success in achieving the goals and objectives established for her in respect of the most recently completed year.

**(e) Professional Dues and Memberships**

The Hospital agrees to pay membership fees for the Executive's professional memberships, including the College of Nurses of Ontario (CNO) and such other organizations or associations as may be chosen by the Executive, subject to review and approval by the President & CEO 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 her duties including cell phone, 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 President & CEO. 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 President & CEO.

**5. AUTHORITY**

The Executive shall, subject to the general or specific instructions and directions of the President & CEO and the by-laws and policies of the Hospital including any limitations, have full power and authority to lead, manage and direct 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.

**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 President & CEO, undertake any other business or occupation or become a director, officer, executive or agent of any other company, firm or individual. The Executive acknowledges that this position will include the carrying out of her 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 her duties, the Executive shall faithfully serve the Hospital and use her 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 her employment, and shall not disclose any confidential information except as required to perform her duties hereunder or as required by law. Confidential information does not include information which was in the public domain

#### **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 her 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 her 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 President & CEO.

##### **(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.

##### **(c) Annual Vacation Entitlement**

The Executive is entitled to six (6) 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 President & CEO. 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.

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 her annual vacation entitlement.

Additionally, the Executive, in recognition of their Administrator On-Call responsibilities and in alignment with Hospital policy, will receive one paid day (7.5 hours) for each week performed as the Administrator On-Call. This shall not be considered to be part of her annual vacation entitlement.

##### **(d) Paid Holidays**

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

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.

## **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 her in good faith in performing her 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 from her employment with the Hospital 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 Wilful Misconduct**

The Hospital shall be entitled to terminate this Agreement at any time without notice, pay-in-lieu of notice, or severance of any kind for wilful misconduct, disobedience or wilful neglect of duty that is not trivial and has not been condoned by the Hospital (the "Wilful Misconduct Standard"). Upon termination, the Executive would be entitled only to the payment of her earned but unpaid wages and vacation pay as of the date of termination.

If the Hospital has cause to terminate the Executive's employment at common law that would not meet the Wilful Misconduct Standard, the Executive will have no entitlement to reasonable notice or other damages at common law, but will be paid only her earned but unpaid wages and vacation pay as of the date of termination and her minimum termination pay, severance pay and any other minimum entitlements (including benefits continuation) owed under the *Employment Standards Act, 2000* upon termination of employment.

**(c) Termination by Hospital in the Absence of Wilful Misconduct or Cause**

The Hospital shall be entitled to terminate this Agreement at any time in the absence of wilful misconduct or cause by providing the Executive with prior written notice or a payment in lieu of notice, or a combination thereof, of six (6) months' base salary plus an additional one (1) month's base salary for each completed year of service in with the Hospital from the Service Date, 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. For clarity, the Hospital will recognize all of the Executive's service with the Hospital from November 17, 2014 until the date of termination in determination of the Continuation Period.

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 seventy-five (75%) 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. Please note, in the event that the Executive obtains alternate employment within the Continuation Period, the Executive will be provided with a lump sum payment equivalent to fifty percent (50%) of the base salary balance owing for the remainder of the Continuation Period.

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 minimum 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 her minimum entitlements to termination pay, severance pay, and any other minimum entitlements (including benefits continuation) required 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) 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 her pursuant to her employment or furnished by the Hospital to her 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 President & CEO, 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 President & CEO.

**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.

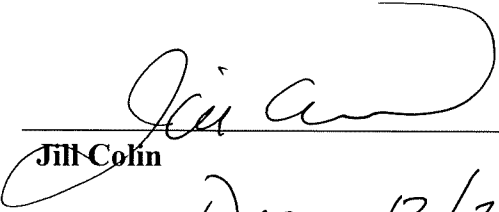
**18. INDEPENDENT LEGAL ADVICE**

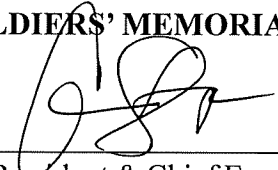
The Executive confirms that, prior to the execution of this Agreement, she had a full and complete opportunity to obtain independent legal advice and representation and that she has done so. The Executive further acknowledges and agrees that she has had sufficient time to review and consider this Agreement,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

  
WITNESS

Print Name: Sarah Litcher

  
\_\_\_\_\_  
Jill Colin  
Date: Dec 12/22.

**ORILLIA SOLDIERS' MEMORIAL HOSPITAL**  
By:   
\_\_\_\_\_  
President & Chief Executive Officer  
Date: Dec. 12 / 2022