

## CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT dated as of the 6<sup>th</sup> day of September, 2022 and BETWEEN:

Orillia Soldiers' Memorial Hospital, a hospital pursuant to the Ontario *Public Hospitals Act* and the regulations thereunder  
(the "**Hospital**")

AND:

**DR. LINDSAY REBECCA ALSTON**, "Dr. Lindsay Rebecca Alston Medical Professional Corporation", an Ontario company having an address at 9 Tascona Court, Barrie, ON L4M 0C5.  
(the "**Contractor**")

WITNESSES THAT WHEREAS:

A. The Hospital wishes to retain the services of the Contractor on the terms and conditions contained in this agreement.

THEREFORE, in consideration of the covenants and agreements set out in this agreement, and for other good and valuable consideration given by each party, the receipt and sufficiency of which is hereby acknowledged by each of the parties, the parties agree as follows:

### PROVISION OF PROFESSIONAL SERVICES

1. **Professional Services** - The Hospital agrees to retain the Contractor to provide the services of a Chief of Staff (the "**Professional Services**") as specified in Appendix A. The Contractor agrees that the Professional Services will be provided by Dr. Lindsay Alston or such other physician with the necessary qualifications whom the parties may agree upon from time to time (the "**Service Provider**"). The Professional Services will be provided for an average of 11.75 full days per month (141 days per year) during the Term (described below). For the purposes of this agreement the term "full day" shall mean approximately eight (8) hours

2. **Term** - This agreement shall commence upon the signing of this agreement and shall end automatically on **September 5, 2025** (the "**Term**"), unless terminated earlier in accordance with the provisions outlined in the by-law, #1, section 79, Chief of Staff (c) and (d). It is understood that transition time will take place that is mutually agreeable between August 22 to September 2, 2022.

3. **Nature of Relationship** - This is an agreement for services, and nothing in this agreement is intended by the parties to create a partnership, joint venture, syndicate or an employee and employer relationship.

4. **Contractor's Business** - The Contractor is entitled, without restriction or approval of the Hospital, to hire employees or retain the services of subcontractors with respect to its business, including providing services to the Hospital. The Contractor is not restricted in any way with respect to services it may provide to clients other than the Hospital, subject to Paragraph 6

below. For clarity, the Contractor is entitled to provide services to any clients, including competitors of the Hospital.

5. **Policies and Procedures** - The Contractor shall comply, at its expense, with all of the Hospital's policies and procedures, and with all applicable industry standards and laws.

6. **Conflict of Interest** - During the term of this agreement the Contractor shall faithfully serve the Hospital and shall not engage in any business where that engagement conflicts with, or could reasonably conflict with at some future date, or interferes with, or could reasonably interfere with at some future date, the Contractor's performance of the Contractor's duties and obligations to the Hospital.

7. **Indemnity for Government Claims** - The Contractor shall indemnify the Hospital from any and all claims by a government department including but not limited to harmonized sales tax ("HST"), income tax, Canada Pension Plan contributions ("CPP"), Employment Insurance premiums ("EI"), Employee Health Tax ("EHT"), Workplace Safety Insurance Board ("WSIB") contributions and any other statutory withholdings that were not withheld, deducted or remitted by the Hospital on behalf of the Contractor.

8. **Insurance** - The Hospital will maintain commercial and general liability insurance ("Insurance") which names the Contractor as an additional insured. Such Insurance will only apply to the carrying out of the Professional Services contemplated in this agreement.

9. **Indemnity** - The Contractor hereby agrees to indemnify and save harmless the Hospital from and against any and all claims, demands, actions, suits, losses, costs, charges, expenses, damages, and liabilities whatsoever which the Hospital may pay, sustain, suffer or incur, by reason of or in connection with any act or omission of the Contractor while carrying out the Professional Services, to the extent these are not covered by the Insurance.

10. **Records** - The Contractor acknowledges responsibility to maintain records for and to pay all necessary income taxes, HST, EHT, EI premiums, CPP and WSIB contributions, including for the Contractor's employees.

#### **PAYMENT FOR PROFESSIONAL SERVICES**

11. **Fees Payable** - In consideration for performing Professional Services, the Hospital shall pay to the Contractor a daily fee of **\$1,792.00** up to maximum annual total fee of **\$252,700.00**, plus HST if applicable, upon receipt of monthly invoices.

12. **Bonus** - The Hospital will provide three (3) percent of the fees payable in Paragraph 11 up to **\$7,581** per year pending determination as to whether the Contractor has been successful in helping the Hospital to achieve key objectives as agreed to with the Board Chair and the CEO. Such determination will be made once per year, within 90 days after the conclusion of the fiscal year. In the event the Hospital determines that all or some of these fees will be paid out to the Contractor, such payment will be made within 120 days after the conclusion of the fiscal year. In the event the Professional Services are provided for only a portion of the fiscal year, any payment of these fees will be pro-rated accordingly.

## **TERMINATION**

13. **Termination By Contractor** - The Contractor may terminate this agreement by providing the Hospital with 30 days written notice. If the Contractor provides notice of termination, the Hospital may elect to immediately terminate this agreement by paying to the Contractor the amount of fees that would have been earned by the Contractor during the thirty-day notice period.

14. **Termination By the Hospital** - The Hospital may terminate this agreement:

- (a) if the Contractor breaches any of the provisions in this contract and such breach is not rectified within 20 days of the breach, or
- (b) at any time by providing the Contractor with 30 days written notice.

## **CONFIDENTIALITY**

15. **Non-Disclosure of Information of the Hospital** - During the term of this agreement and thereafter, the Contractor shall keep confidential all information of a confidential or proprietary nature concerning the Hospital and shall not use or disclose that information for the Contractor's personal advantage or the advantage of any third party, provided that nothing herein shall prevent disclosure of information which is publicly available or which is required to be disclosed under appropriate statutes, rules of law or legal process. The Contractor may disclose confidential information for purposes of seeking legal or financial advice where its own advisors have a duty of confidentiality.

16. **Return of Records and Hospital Property** - The Contractor shall at any time upon request by the Hospital, and in any event upon the end of the term of this agreement (irrespective of the time, manner or cause of the termination of this agreement), promptly return to the Hospital any property belonging to the Hospital or relating to the Hospital's business.

17. **Confidentiality of this Agreement** - The Contractor agrees that it will keep the details of this agreement confidential and will not release the details of this agreement to anyone other than the legal or financial advisors of the Contractor or as required by law, without the prior written consent of the Hospital.

18. **Non-Disparagement** - The parties agree that they shall not engage in any pattern of conduct that involves the making or publishing or written or oral statements or remarks (including, without limitation, the repetition or distribution of derogatory rumours, allegations, negative reports or comments) which are disparaging, deleterious or damaging to the integrity, reputation or goodwill of the other party.

19. **Enforcement** - The Contractor acknowledges and agrees that the covenants and obligations under this agreement are reasonable, necessary and fundamental to the protection of the Hospital's legitimate business interests, and the Contractor acknowledges and agrees that any breach of this agreement by the Contractor would result in irreparable harm to the Hospital and loss and damage to the Hospital.

## **INTELLECTUAL PROPERTY**

20. All work products and research, including documentation and reports developed for the Hospital under the terms and conditions of this Agreement shall belong to, and shall remain the property of, the Hospital. This provision does not apply to any publications by the Contractor or any of its employees or any developments of commercial products as part of the clinical practice of the Contractor or any of its employees.

## **DISPUTE RESOLUTION**

21. Any dispute, controversy or claim arising out of or in connection with, or relating to, this Agreement, or the performance, breach, termination or validity thereof, shall be finally settled by arbitration. Either party may initiate arbitration within a reasonable time after any such dispute, controversy or claim has arisen, by delivering a written demand for arbitration upon the other party. The arbitration shall be conducted in accordance with the Ontario *Arbitration Act*, as amended. The arbitration shall take place in Toronto, Ontario, and shall be conducted in English.

22. The arbitration shall be conducted by a single arbitrator having no financial or personal interest in the business affairs of either of the parties. The arbitrator shall be appointed jointly by agreement of the parties, failing which an arbitrator shall be appointed by ADR Chambers Inc., Toronto. Absent agreement or an award in the arbitration to the contrary, the arbitration fees and expenses shall be paid by the parties jointly.

23. The arbitrator shall have the authority to award any remedy or relief that a court could order or grant in accordance with this Agreement, including, without limitation, specific performance of any obligation created under this Agreement, the issuance of an interim, interlocutory or permanent injunction, the imposition of sanctions for abuse or frustration of the arbitration process, dismissal of the claimant's claim or the respondent's defence for want of prosecution or lack of diligence in moving to the arbitration proceeding.

24. The arbitral award shall be in writing, stating the reasons for the award, and shall be final and binding on the parties with no rights of appeal. The award may include an award of costs, including reasonable legal fees and disbursements and expenses of the arbitrator. Judgment upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant party or its assets.

25. The arbitration shall be kept confidential and the existence of the proceeding and any element of it (including but not limited to any pleadings, briefs or other documents submitted and exchanged, and testimony or other oral submission and any awards) shall not be disclosed beyond the arbitrator, the parties, their counsel and any person necessary to the conduct of the proceeding, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

26. This clause shall survive the expiration or termination of this Agreement for any reason.

## **MISCELLANEOUS**

27. **Severability** - Should any part of this agreement be declared or held to be invalid for any reason, the invalidity shall not affect the validity of the remainder of this agreement which shall continue in full force and effect and be construed as if this agreement had been executed without the invalid portion, and it is hereby declared the intention of the parties that this agreement would have been executed without reference to any portion that may, for any reason, be hereafter declared or held invalid.

28. **Entire Agreement** - The provisions herein constitute the entire agreement between the parties and supersede all previous communications, representations and agreements, whether oral or written, between the parties with respect to the subject matter hereof.

29. **Governing Law** - This agreement shall be governed by and interpreted in accordance with the laws of Ontario, and the courts of Ontario shall have the exclusive jurisdiction over this agreement and any claim or dispute arising under it.

30. **Enurement** - This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, personal representatives and permitted assigns.

31. **Assignment** - The Hospital shall have the right to assign this agreement to another party. The Contractor may assign its/his/her rights under this agreement or delegate to others any of his functions and duties under this agreement only with the prior written approval of the Hospital, which may be withheld in its sole discretion.

32. **Legal Advice** - The Contractor acknowledges that it was recommended to the Contractor by the Hospital that the Contractor obtain independent legal advice before executing this agreement, and that by executing this agreement the Contractor represents that the Contractor had the opportunity to obtain independent legal advice.

33. **Confidentiality of Agreement** - The Contractor shall keep confidential and not disclose any of the terms of this agreement to any person unless required to do so by law or for the purpose of obtaining confidential legal, financial or tax planning advice.

IN WITNESS WHEREOF the parties have hereto have duly executed this agreement as of the day and year first above written.

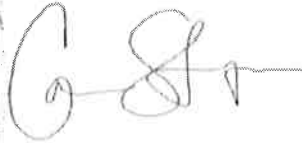
Orillia Soldiers' Memorial Hospital  
Per:



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Ligaya Byrch  
Chair, OSMH Board of Directors


Orillia Soldiers' Memorial Hospital  
Per:



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Carmine Stumpo  
President and CEO

**Dr. Lindsay Rebecca Alston**  
**Dr. Lindsay Rebecca Alston Medical**  
**Professional Corporation**  
Per:

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Authorized Signatory