

EMPLOYMENT AGREEMENT

BETWEEN

QUEENSWAY CARLETON HOSPITAL

(the "Hospital")

– and –

DR. KATALIN KOVACS

(the "Executive")

WHEREAS the Hospital wishes to offer the Executive employment in the position of Chief of Medical Staff for a three (3) year term, subject to termination in accordance with the termination provisions below;

AND WHEREAS the Executive wishes to accept employment with the Hospital as Chief of Medical Staff on and subject to the terms set out herein;

NOW THEREFORE in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Employment**

- (a) The Hospital confirms the appointment of the Executive to undertake the duties of, and exercise the powers as, Chief of Medical Staff of the Hospital, and the Executive indicates their acceptance of this appointment.
- (b) The Executive shall perform those duties as set out in the position description(s) developed by the Hospital's President and Chief Executive Officer (the "CEO") and Board of Directors (the "Board") and as may be amended by the Board from time to time, together with such other duties or amended duties as may reasonably be requested from time to time by the Board. In carrying out their duties, the Executive will comply with all lawful instructions and directions given to them by the Board and shall carry out those duties in accordance with the *Public Hospitals Act* (Ontario), other applicable laws, and the by-laws, policies, rules and regulations of the Hospital.
- (c) The Executive shall be accountable to and subject to the direction and control of the CEO and Board. It is understood that in the normal course all communications, reports and actions between the Executive and the Board will be through the Board Chair.



2. Term

- (a) The Executive's appointment under this Agreement shall commence effective **October 1, 2020** (the "Start Date") and shall continue for a term of three (3) years until September 30, 2023 (the "End Date"), unless terminated earlier in accordance with the provisions of this Agreement. The Executive's appointment under this Agreement shall be subject to annual confirmation by the Board. Should the Board in any year of the Term decide not to confirm the Executive's appointment, the Executive's employment with the Hospital shall be terminated pursuant to Article 9(d) below.
- (b) The parties may agree in writing prior to the End Date to renew the Executive's employment for a further term of three (3) years, or for a further term of such other length as may be agreed between the Parties. If the Parties do not so agree, then the Executive's employment will end on the End Date, without further notice or pay in lieu thereof whatsoever. If the Parties do agree to renew the Executive's employment, then the terms and conditions set out herein shall apply to the Executive's employment during any such renewal term, save and except as may be modified by agreement in writing between the Parties.

3. Compensation

- (a) Effective the Start Date, the Executive shall be entitled to a salary of \$124,591.60 per annum, less all usual and necessary deductions and withholdings.
- (b) The salary payable to the Executive will be reviewed annually in accordance with the Hospital's compensation framework and all applicable statutes and regulations.

4. Benefits

- (a) The Executive will be entitled to six percent (6%) of the above salary in lieu of the regular insured group benefits available to executives of the Hospital.
- (b) The Executive shall participate in the Healthcare of Ontario Pension Plan (HOOPP), the contributions for which shall be divided between the Executive and the Hospital in accordance with the usual terms and conditions of the Plan.
- (c) The Executive shall be entitled to ten (10) days of paid vacation in each year of employment and must use accumulated vacation time within six (6) months after the year in which they became entitled to the vacation time or the balance remaining shall be paid out. Notwithstanding the foregoing, the Executive and the Hospital may agree to the carry forward of unused vacation in excess of the Executive's entitlement under the *Employment Standards Act, 2000*, as amended from time to time, in any given year. Vacation so carried forward must be used in the following vacation year. Vacation shall be taken at such time as the Hospital and Executive may mutually agree upon, having regard to the operations of the Hospital.

5. **Expenses**

- (a) The Executive shall be reimbursed for all authorized travelling and other out-of-pocket expenses actually and reasonably incurred in connection with their duties hereunder. "Authorized" expenses include expenses that are either (i) incurred in accordance with established Hospital policy or (ii) approved in advance by the Hospital. For all such expenses, the Executive shall furnish to the Hospital statements and receipts as and when required by the Hospital.
- (b) The Executive shall also be reimbursed the cost of professional memberships as are agreed to by the Hospital. The expenses so incurred by the Executive are subject to the approval of the Hospital.
- (c) The parties agree that ongoing professional development benefits both the Hospital and the Executive. The Executive shall be at liberty to attend 30 hours of continuing education in each year provided that, in the opinion of the Hospital, such continuing education programs shall relate directly to the responsibilities of the Executive under this agreement. Remuneration of the Executive shall continue as set out herein during the period of absence in attending continuing education programs. Reasonable and approved travel, food, and other expenses incurred for such programs shall be paid to the Executive, conditional upon approval of the Hospital and upon the Executive filing of supporting expense reports and receipts, in compliance with Hospital policies.

6. **Duties and Authority**

- (a) Throughout the term of this Agreement, the Executive shall devote two (2) days per week of their time and attention to the business and affairs of the Hospital in their capacity as Chief of Medical Staff, and shall well and faithfully serve the Hospital and use best efforts to promote the interests thereof.
- (b) The Executive will be subject to the Hospital's policies in the performance of their duties, as approved and reviewed by the Hospital from time to time. Where the provisions of this Agreement conflict with the Hospital's policies, the provisions of this Agreement shall govern.
- (c) The Hospital agrees that during the Term of this Agreement it shall maintain in force for the Executive's benefit Directors and Officers' liability insurance, and that it shall defend, hold harmless and indemnify the Executive during the period of employment and indefinitely following the termination of employment howsoever arising from any and all demands, claims, suits, actions and legal proceedings brought against the Executive in their capacity as agent and employee of the Hospital, including payment of legal costs, charges and expenses of a civil or administrative action or proceeding, to the extent permitted by law, where the subject incident arose while the Executive was acting in the scope of their

employment, honestly and in good faith, subject to any limitations on indemnification imposed by applicable law.

- (d) The Executive shall at all times be and remain a duly qualified medical practitioner in good standing, licensed to practice in the Province of Ontario and a member of the Canadian Medical Protective Association or equivalent.
- (e) The Executive shall not engage in the undertaking or carrying on of any other business, undertaking or activity which is or may be against the interest of the Hospital, during the term of their Employment with the Hospital, without the prior written consent of the Board. The Executive agrees that they will not hold an administrative leadership position at another Hospital during the term of their Employment without the written consent of the Board.
- (f) Notwithstanding privilege responsibilities for coverage in the Mental Health Department as a member of the active medical staff, the Executive may, in collaboration with the Chief of the Mental Health Department, arrange a call schedule which reflects the additional burden of the Executive's duties under this Agreement.

7. **Confidentiality**

- (a) All confidential information of the Hospital, whether it is developed by the Executive during the period of employment or by others employed or engaged by or associated with the Hospital, is the exclusive property of the Hospital and shall at all times be regarded, treated and protected as such. "**Confidential information**" includes, without limitation, information and facts relating to the operation and affairs of the Hospital or any of its related or associated entities, including without limitation, the Queensway Carleton Hospital Foundation or acquired in the course of carrying out its operations.
- (b) The Executive shall not disclose confidential information to any person or use any confidential information (other than as necessary in carrying out the Executive's duties on behalf of the Hospital) at any time during or subsequent to their period of employment without first obtaining the consent of the Board, and the Executive shall take all reasonable precautions to prevent inadvertent disclosure of any such confidential information.
- (c) Within thirty (30) days after the termination of the Executive's employment by the Hospital for any reason, or of receipt by the Executive of the Hospital's written request, the Executive shall promptly deliver to the Hospital all property belonging to the Hospital, including without limitation all confidential information of the Hospital (in whatever form) that is in the Executive's possession or under the Executive's control.
- (d) Nothing in this Section precludes the Executive from disclosing or using confidential information of the Hospital at any time if:

- (i) Such confidential information is available to the public or in the public domain at the time of such disclosure or use, without breach of this Agreement;
 - (ii) disclosure of such confidential information is required to be made by any law, regulation, governmental body, or authority or by court order, provided that before disclosure is made, notice of the requirement is provided to the Hospital, and to the extent possible in the circumstances, the Hospital is afforded an opportunity to dispute the requirement; or
 - (iii) such confidential information becomes available to the Executive on a non-confidential basis from a source other than the Hospital without breach of this or any other Agreement.
- (e) The Executive acknowledges that notwithstanding anything in this section, they will at all times comply with their obligation to protect the confidentiality of personal health information relating to patients of the Hospital which may come into their possession in the course of carrying out their duties under this Agreement. The Executive specifically agrees to comply with the provisions of the *Personal Health Information Protection Act*, as amended, and with all Hospital policies and procedures developed and implemented pursuant to that Act.

8. **Non-Solicitation**

- (a) The Executive agrees that while they are employed under this Agreement and, for a period of two (2) years from the date of termination of employment (whether such termination is occasioned by the Executive or by the Hospital with or without cause, or by mutual agreement), the Executive will not solicit or attempt to solicit any employee of the Hospital to leave the employment of the Hospital.
- (b) The Executive acknowledges that violation of the covenants contained in this paragraph and/or in paragraph 7, above could result in irreparable harm to the Hospital, such that an award of damages would be inadequate to remedy the harm. Accordingly, the Executive agrees that the Hospital shall be entitled to an injunction restraining any breach of the covenants in this paragraph and in paragraph 7, above. This right to an injunction shall be in addition to and not in lieu of any right of the Hospital to damages in respect of any such breach by the Executive.
- (c) The Executive agrees and warrants that the covenants contained herein are reasonable, that valid consideration has been and will be received therefor and that the Agreement set forth herein is the result of arm's length negotiations between the parties hereto.

9. Termination

The parties understand and agree that this Agreement and the Executive's employment may be terminated prior to the End Date in the following manner in the specified circumstances:

- (a) Immediately upon the death of the Executive, subject to the requirement to pay any monies accrued and owing at the time of the Executive's death to the Executive's estate.
- (b) By the Executive, at any time, for any reason, on the giving of four (4) months of written notice. Upon completion of this notice period, the Executive's employment shall be fully and finally terminated without further entitlement to notice, pay in lieu of notice, or any other payment in respect of the termination, save and except salary and vacation pay accrued and payable up to the date of termination, and reimbursement of any outstanding expenses incurred up to the termination date and payable pursuant to this Agreement. The Hospital may waive this notice by providing the Executive with the compensation to which the Executive would have been entitled during the period of notice so waived.
- (c) By the Hospital for just cause, without notice or pay in lieu thereof, except as may be required under the *Employment Standards Act, 2000*, as amended from time to time. For purposes of defining "just cause" in this Agreement, "just cause" includes, without limitation:
 - (i) any material breach of the provisions of this Agreement;
 - (ii) willful failure to carry out the Executive's duties as set out in this Agreement or as prescribed by the Hospital from time to time;
 - (iii) willful failure to comply with the applicable legislation governing the Hospital, including the *Public Hospitals Act*, or with the Hospital's by-laws, policies, rules or regulations;
 - (iv) any conduct of the Executive that tends to bring the Executive or the Hospital into disrepute; or
 - (v) conviction of the Executive of a criminal offence punishable by indictment.

For greater certainty, if the "just cause" relied on by the Hospital in terminating the Executive's employment pursuant to this section does not amount to "willful misconduct or willful neglect of duty" pursuant to the *Employment Standards Act, 2000*, as amended from time to time, the Executive will be provided with their entitlements upon termination of employment pursuant to that *Act* notwithstanding that the Executive's employment with the Hospital has been terminated for just cause.
- (d) By the Hospital in its absolute discretion and for any reason without just cause, upon providing to the Executive notice of termination or at the Hospital's sole discretion pay in lieu thereof, for a period calculated as follows (hereinafter referred to as the "Notice Period"):

- (i) Six (6) months if the notice is given during the first year of the Executive's employment with the Hospital;
- (ii) Nine (9) months if the notice is given on or after the first anniversary of the Executive's employment with the Hospital but before the second anniversary; or
- (iii) Twelve (12) months if the notice is given on or after the second anniversary of the Executive's employment with the Hospital.

At the sole discretion of the Hospital, the pay in lieu of notice set out above may be paid to the Executive in monthly installments corresponding to the number of months of entitlement. For greater certainty, if the Executive finds employment within the Notice Period, the Hospital shall not be entitled to set off against the payments owing by the Hospital under this paragraph any amounts received by the Executive from such employment, save and except where the new employment is as a full-time employee with a Department, Ministry, Agency, or crown corporation of the Government of Ontario, or another Designated Employer as defined in the *Broader Public Sector Executive Compensation Act, 2014*, as amended, or with a Department, Ministry, Agency, or Crown Corporation of the Government of Canada (all hereinafter referred to as an "Ontario or Federal Public Sector Employer"). Payments under this paragraph shall be reduced by the full amount of compensation which the Executive earns during the applicable Notice Period through full-time employment with such an Ontario or Federal Public Sector Employer.

For greater certainty, the parties do not intend the Executive to receive less on termination of employment without cause than the entitlements upon termination under the *Employment Standards Act, 2000*, as amended from time to time. If in any case the application of this Agreement would result in the Executive receiving less than those entitlements, they shall instead receive those statutory entitlements in full.

- (e) Where the Hospital terminates the employment of the Executive under paragraph 9(d) above, the Hospital shall pay to the Executive any vacation entitlement accrued up to the date of termination and shall also provide the Executive with accrual of vacation pay and continuation of their benefits for the period required pursuant to the *Employment Standards Act, 2000*, as amended from time to time.
- (f) The Executive acknowledges that the payments contemplated herein are reasonable and that they are paid in full and final satisfaction of all claims, whether at common law or under the *Employment Standards Act, 2000*, as amended from time to time, which the Executive may have for wrongful dismissal, severance pay, termination pay or other damages arising from the termination of employment. The Executive waives any claim to any other payment or benefits from the Hospital.

10. **Assignment of Rights**

The rights, which accrue to the Hospital under this Agreement, shall pass to its successors or assignee. The rights of the Executive under this Agreement will not be assignable or transferable in any manner.

11. **Notices**

Any notice required or permitted to be given to the Executive shall be sufficiently given if delivered to the Executive personally or mailed by registered mail to their address last known to the Hospital. Any notice required or permitted to be given to the Hospital shall be sufficiently given if mailed by registered mail to the Hospital to the attention of the Chair of the Board.

12. **Severability**

In event that any provision or part thereof of this Agreement is determined by a court of competent jurisdiction to be void or invalid, such provision or part thereof shall be severed from the balance of this Agreement to the extent of the inconsistency, and the remaining provisions or parts thereof shall continue in full force and effect. Should this occur, the parties agree to meet and negotiate in good faith as to whether or not changes to the Agreement are required as a result of such a declaration of invalidity.

13. **Waiver**

No waiver by either party of any breach of any provisions herein shall constitute a waiver of the provision except with respect to the particular breach giving rise to the waiver.

14. **Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the employment of the Executive and any and all provisions in any prior written agreements are terminated and cancelled and each of the parties release and forever discharge the other of and from all manner of actions, causes of action, claims and demands under or in respect of any such agreement. The Parties further agree that in entering into this Agreement, they are not relying on any warranty, representation or inducement except as specifically set out herein. The Executive specifically agrees and acknowledges that they have not been induced to enter into this Agreement by the Hospital, and that they voluntarily enter into this Agreement of their own free will.

15. **Modification**

Any modification of this Agreement must be in writing and signed by the parties.

16. **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 covenants and agreements contained in it.

17. **Time**

Time shall be of the essence in this Agreement.

18. **Governing Law**

This Agreement shall be construed in accordance with the laws of Ontario.

19. **Independent Legal Advice**

The Executive confirms that, prior to the execution of this Agreement, they had a full and complete opportunity to obtain independent legal advice and representation and that they have either done so or have freely chosen not to obtain such advice.

IN WITNESS WHEREOF this Agreement has been executed by the parties to it, this 30TH day of September, 2020 in the City of Ottawa, the Province of Ontario.

SIGNED, SEALED & DELIVERED

In the presence of:



J. Haulters

Witness

**QUEENSWAY CARLETON
HOSPITAL**

Ken Alger

Per: Ken Alger
QCH Board Chair

Katalin Kovacs

KATALIN KOVACS