

EMPLOYMENT AGREEMENT

THIS AGREEMENT is made this 13th day of August, 2013

BETWEEN:

Northumberland Hills Hospital ("the Hospital")

- AND -

Linda Davis

("the CEO")

WHEREAS the Hospital, has offered to appoint the CEO to the position of President and Chief Executive Officer effective **November 18th**, 2013

AND WHEREAS the CEO has accepted this appointment;

AND WHEREAS the parties hereto have agreed that the employment of the CEO will be based upon the terms and conditions set out in this Agreement;

NOW THEREFORE IN CONSIDERATION of the mutual premises, agreements and covenants contained in this Agreement, the parties agree as follows:

ARTICLE 1 – EMPLOYMENT

1.1 Agreement to Employ

Subject to the terms and conditions of this Agreement, the Hospital agrees to employ the CEO in the position of President and Chief Executive Officer, and the CEO agrees to work for the Hospital in such capacity; to perform the duties in compliance with applicable laws, the Hospital's By-Law, policies, procedures, rules and regulations, all as may be amended from time to time, and this Agreement; and, to exercise the powers as may be assigned to the CEO from time to time by the Board of Directors of the Hospital (the "Board").

1.2 Term of Employment

The CEO shall be employed by the Hospital effective from **November 18**, 2013 and continue in such employment until the earliest of: (a) the CEO's death, or (b) termination in accordance with Article 5 of this Agreement.



ARTICLE 2 – CEO'S COVENANTS

2.1 Exclusive Service

During the term of this Agreement, the CEO agrees to faithfully perform the assigned duties and apply her best efforts to promote the interests of the Hospital and healthcare within the local community. The CEO shall devote the whole of her working time and attention to the business affairs of the Hospital and shall not, unless the CEO has the consent of the Board Chair of the Hospital, which consent will not be unreasonably withheld, engage either directly or indirectly in any other business or occupation of a permanent, temporary or part-time nature.

2.2 Non-Disclosure and Confidentiality

The CEO acknowledges that, in the course of performing and fulfilling the duties and obligations as the President and Chief Executive Officer, she will have access to and will be entrusted with information concerning the Hospital activities and operations which is not generally known in the healthcare industry or other industries or businesses in which the Hospital participates ("Confidential Information"). The CEO acknowledges that the unauthorized disclosure of any Confidential Information would be detrimental to the Hospital. The CEO further acknowledges and agrees that the right to maintain confidential such Confidential Information is a proprietary right that the Hospital is entitled to protect.

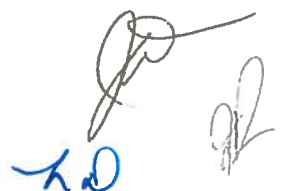
The CEO therefore agrees not to disclose either during the term of employment or at any time after leaving the employ of the Hospital any such Confidential Information to any person or use any such Confidential Information except as required in the normal course of employment by the Hospital or as required by law. The CEO shall not be prohibited by this non-disclosure provision from using personal skills and knowledge developed prior to and during her employment with the Hospital.

2.3 The Hospital's Property

The CEO acknowledges that all items of any kind created or used by the CEO on behalf of the Hospital during the course of employment with the Hospital or provided by the Hospital to the CEO, including but not limited to, all equipment, credit cards, books, records, reports, files, diskettes, manuals, literature, confidential information or other materials, shall remain and be considered the exclusive property of the Hospital at all times and which the CEO agrees to deliver to the Hospital at any time, upon reasonable request.

The CEO will be permitted to reproduce and utilize a copy or reproduce presentations, reports, files, manuals or literature that she created and used for the purpose of conference presentations, publications and related academic activity during the tenure of her employment during and following her employment with the Hospital.

The CEO will be responsible for taking reasonable precautions to safeguard any of the Hospital's information and property (ie laptop computer, cell phone) that may be in the CEO's home environment.

Handwritten signatures and initials in blue ink, including a large signature and the initials 'KD'.

ARTICLE 3 – COMPENSATION AND EXPENSES

3.1 Base Salary

The Hospital agrees to pay the CEO a base salary of Two hundred and fifty thousand dollars (\$250,000.00) per annum.

3.2 Annual Salary Increases

Annual salary increases beyond the CEO's salary referred to in section 3.1, will be based upon the CEO's performance, the Hospital's financial resources and the requirements of any applicable legislation, and will be consistent with generally accepted compensation practices. Any proposed increase in the CEO's base salary will consider the assessment of the CEO's performance by the Board or such Board Committee identified by the Board consistent with then current Board Policy.

3.3 Performance Payment

- (a) As determined by the Board in accordance with this section 3.3, the CEO may be eligible to earn a performance payment of up to ten percent (10%) of her annual base salary as a performance incentive. This performance incentive compensation will be included in the CEO's Healthcare of Ontario Pension Plan ("HOOPP") pensionable earnings if permitted under the terms of the Plan.

The determination of whether a performance payment is paid shall be made by the Board and in recognition of the CEO's achievement of the strategic goals, objectives and operational targets set annually by the Board. These strategic goals, objectives and operational targets shall be linked to the following factors:

- (i) Successful implementation of measures to reduce costs while protecting front-line service;
- (ii) Achievement of articulated government priorities;
- (iii) Successful attainment of performance improvement targets within the Hospital Quality Improvement Plan; and
- (iv) Attainment of other goals and objectives and targets established by the Board.

The performance payment, if any, will be determined by the Board and paid by the Hospital for each fiscal year on or before June 30th of the following year, after the data for the expired fiscal year necessary to review the strategic goals, objectives and operational targets is available. The parties acknowledge that the payment of the performance incentive payments may be subject to legislative guidelines.



- (b) The Board's decision to pay a performance incentive payment pursuant to section 3.3 above does not result in an adjustment to the future base salary payable to the CEO.
- (c) Notwithstanding any other provision of this Agreement, the CEO acknowledges and agrees that no performance payment will be made under this section until the wage restraint legislation has expired.

3.4 Relocation/Moving Allowance

- (a) Subject to paragraph (b) below, the Hospital will provide a conditional relocation allowance for reimbursement purposes of up to Forty thousand dollars (\$40,000.00). Reimbursement will be provided upon production of the appropriate receipts.
- (b) The CEO acknowledges and agrees that in the event she resigns her position within twenty-four (24) months of the effective date of this Agreement, she will be required to reimburse the relocation allowance on a pro rated basis (reimbursement = (relocation allowance paid divided by 24) x (24 less the number of months employed)).

3.5 Business Expenses and Reimbursement

- (a) The Hospital shall reimburse the CEO for all reasonable travel and other out-of-pocket expenses actually and properly incurred by the CEO on behalf of the Hospital in accordance with applicable Hospital policies and procedures.
- (b) The CEO shall be reimbursed for, or the Hospital shall pay, all Board Chair approved annual professional membership fees in order to maintain active membership in Professional Associations which are relevant to the position held.

3.6 Automobile Allowance

The CEO shall receive an automobile allowance of Six hundred dollars (\$600.00) per month as a taxable benefit and shall be subject to regular payroll remittances. The automobile allowance covers all operating expenses pertaining to the automobile, including insurance, maintenance costs and repairs. A mileage allowance at the approved rate and off-site parking charges incurred in the performance of Hospital duties will be reimbursed by the Hospital.

3.7 Benefits and Vacation

The CEO shall participate in group life insurance, pension, extended health care and dental benefits, short term and long term disability benefits; and any and other similar or comparable benefits available to senior management employees of the Hospital. All plans and benefits shall commence for the CEO on the effective date of this Agreement. The CEO shall be eligible for participation in HOOPP on the same basis as available to senior management employees of the Hospital.

The CEO shall be entitled to six (6) weeks vacation consistent with the Hospital policy in each service year during the term of this Agreement. The CEO shall take vacation at a time or times mutually agreeable to the CEO and the Board Chair. Unused vacation may not be carried over into a subsequent year without the Board Chair's written consent

ARTICLE 4 – PERFORMANCE EVALUATION

4.1 Performance Evaluation Process

The process of the CEO's performance evaluation will be established by the Board. The system may include a 360-degree process in which individuals knowledgeable of the CEO's performance may participate in the evaluation and the evaluation may include a behavioural component to ensure that behaviour consistent with the values of the Hospital is practiced. Annual strategic goals, objectives and operational targets will be set with the CEO. Performance evaluation will be conducted annually.

4.2 Performance Development

The CEO will be eligible to receive allowances for professional development expenses including the costs of registration, travel and accommodation for such activities that are reasonable and approved in advance by the Board Chair.

ARTICLE 5 – TERMINATION OF EMPLOYMENT

5.1 Resignation by CEO

The CEO may resign from her position at any time provided the CEO gives the Hospital three (3) months notice, in writing.

5.2 Termination of Employment by the Hospital for Cause

The Hospital may terminate this Agreement at any time for cause by written communication, without payment of any compensation, either by way of anticipated compensation or damages of any kind except for any compensation or other amount accrued or earned to date of termination. "Cause" for the purpose of this Agreement shall be as established by the laws of the Province of Ontario.

5.3 Termination without Cause by the Hospital

The Hospital may terminate the employment of the CEO without Cause at any time during the term of this Agreement as follows:

- (a) By giving twelve (12) months written notice to the CEO.
- (b) By providing twelve (12) months compensation in lieu of notice. The Hospital will also pay, as a lump sum payment to the CEO, any unpaid salary or expected performance pay earned by the CEO up to and including the date of such termination, and any unpaid vacation pay earned by the CEO in the current year



up to and including the date of termination. The Hospital will maintain the CEO's health, dental and life insurance coverage, to the extent permitted by the respective carriers, excluding short term and long term disability, from date of termination until the term of severance is complete under section 5.3. In the event the CEO secures alternative employment prior to the end of the applicable notice period, the Hospital's obligations under this section respecting benefits continuation shall cease upon the commencement of such alternative employment.

- (c) The twelve (12) months written notice referred to in paragraph 5.3(a) above will increase by one (1) month per completed year of service after the first year to a maximum of eighteen (18) months notice or pay in lieu of notice.
- (d) The CEO acknowledges that the notice and payment described above are in complete satisfaction of any and all rights to notice, pay in lieu of notice, severance pay and any other claim that the CEO would have otherwise at common law or under any statute. Upon receipt of such notice or payment in lieu of notice, the CEO acknowledges that she will not have any claim against the Hospital, its Directors, Employees, Agents and Officers, in any way related to her hiring, employment with or the termination of her employment by the Hospital.

5.4 Death

This Agreement shall end without notice upon the death of the CEO. In the event of death, any outstanding salary performance payments and eligible expenses and allowances will be paid out to the Estate of the CEO.

ARTICLE 6 - DISABILITY, INSURANCE AND INDEMNIFICATION

6.1 Disability

- (a) If the CEO becomes eligible for long term disability benefits under the Hospital's general disability policy this Agreement shall be deemed frustrated at the discretion of the Hospital, and in such event the Hospital shall, notwithstanding any other provisions contained in this Agreement, have no obligation to make payments to the CEO for notice or severance, other than amounts owing for notice or severance under the Employment Standards Act (Ontario) and a payment of an amount equal to six (6) months base salary hereunder.
- (b) Payment of long term disability benefits will be determined only by the insurer's definition of disability.
- (c) The CEO agrees to accept her entitlement for notice and severance pursuant to paragraph 6.1(a) above as full and final settlement of all amounts owing to her by the Hospital for notice and severance.

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6.2 Liability Insurance

The Hospital shall insure the CEO under its general liability policy both during and after the term of her employment, for all acts done by the CEO in good faith and in the execution of her office as President and Chief Executive Officer, throughout the term of her employment, including where the CEO is specifically named in a lawsuit launched by a patient, employee, member of the medical staff, or any other party.

6.3 Indemnification

The Hospital will provide the CEO with the same indemnification protection that it provides to its Directors and Officers.

ARTICLE 7 – GENERAL PROVISIONS

7.1 Confidentiality

The parties agree that, if at any time in the future a dispute arises in relation to the termination of the CEO's employment, any settlement of the dispute and all negotiations leading up to the settlement will remain confidential. The parties agree not to disclose the terms and conditions of any such settlement to any other party except their legal and financial advisors, or as required by law, and in the case of the CEO, disclosure to the CEO's partner is also permitted.

7.2 Binding Agreement

This Agreement constitutes the entire agreement between the parties and all promises, representations, understandings, arrangements and prior agreements are merged into and superseded by this Agreement. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express or implied, between the parties other than as expressly set forth in this Agreement. This Agreement revokes and supersedes any prior agreement between the CEO and the Hospital or a legacy institution respecting the employment of the CEO.

7.3 Sections and Headings

The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.

7.4 Amendments and Waivers

This Agreement may be amended by mutual agreement in writing of the Hospital and the CEO, and no amendment to this Agreement shall be valid or binding unless in writing and executed by both parties to this Agreement. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.



7.5 Severability

Should any provision of this Agreement become invalid, illegal or unenforceable, it shall be considered separate from the Agreement and the remaining provisions shall remain in force and binding upon the parties as though such provisions had not been included.

7.6 Governing Law

This Agreement shall be deemed to have been made in and shall be construed in accordance with the laws of the Province of Ontario.

7.7 Enurement

The CEO may not assign, pledge or encumber the CEO's interest in this Agreement nor assign any of the rights or duties of the CEO under this Agreement without the prior written consent of the Hospital. This Agreement shall be binding on and enure to the benefit of the successors and assigns of the Hospital and the heirs, executors, personal legal representatives and permitted assigns of the CEO.

7.8 Arbitration

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 before a single arbitrator. The arbitrator shall be agreed upon between the CEO and the Hospital, failing which either party may apply to a Judge of the Superior Court (Ontario) for appointment of the arbitrator. The award of the arbitrator will be final and binding on the parties and not subject to appeal, save in regard to a question of law, and provided that notice of such appeal is served on the other party and filed in Court within 10 days of the receipt of the award of the arbitrator. The award of the arbitrator shall be in writing and shall include an award of costs against the unsuccessful party, or as the arbitrator sees fit, which award shall include the arbitrator's fees and expenses as well as those of legal counsel and expert witnesses.

The arbitration shall be conducted in accordance with the Ontario Arbitration Act, S.O. 1991, c.17.

Nothing in this section shall prohibit the Hospital from applying to the Superior Court of Justice for injunctive relief.

7.9 Notices

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and may be given by personal delivery or by registered mail addressed to the recipient as follows:

To the CEO:

Handwritten signature and initials in blue ink, possibly reading "K.O." and "J.F."

To the Hospital: Northumberland Hills Hospital
Attention: Board Chair
1000 DePalma Drive
Cobourg, Ontario K9A 5W6

or to such other addresses or individuals as may be designated by notice by either party to the other. Any communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery and, if made or given by registered mail, on the fifth day, other than a Saturday, Sunday or statutory holiday in Ontario following deposit in the mail. If the party giving any communication knows or ought reasonably to know of any difficulties with the postal system which might affect the delivery of mail, any such communication shall not be mailed but shall be given by personal delivery.

7.10 Copy of Agreement

The CEO acknowledges receipt of a copy of this Agreement executed by both parties.

7.11 Counterpart

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument. Delivery by facsimile or email of any executed counterpart of this Agreement shall be equally as effective as delivery of a manually executed counterpart thereof.

IN WITNESS WHEREOF the parties execute this Agreement as of the day, month and year first written above.

NORTHUMBERLAND HILLS HOSPITAL

By: 

Name: J. Douglas Mann
Title: Chair of the Board

By: 

Name: Jack Russell
Title: Vice Chair of the Board

SIGNED, SEALED & DELIVERED

In the presence of:


Witness


Linda Davis