

EXECUTIVE EMPLOYMENT AGREEMENT

BETWEEN:

SOUTHLAKE REGIONAL HEALTH CENTRE

(the "Hospital")

- and -

ARDEN KRYSTAL

(the "Executive")

Whereas the Hospital wishes to engage the Executive in the position of President and Chief Executive Officer and the Executive wishes to be employed by the Hospital in that capacity; and

Whereas the Executive recognizes and acknowledges that the Hospital operates within the Health Care industry, which is regional in its scope and may require exceptional covenants respecting confidentiality and competition; and

Whereas the Executive and the Hospital desire to enter into this Agreement for the purpose of setting forth the terms and conditions of the Executive's employment with the Hospital;

Now therefore, in consideration of the mutual covenants and promises set out herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Hospital and the Executive agree as follows:

SECTION 1 – POSITION, TERM AND CONDITIONS PRECEDENT

- 1.01 **Position.** Subject to the satisfaction of the conditions set out in Section 1.03, the Hospital agrees to employ the Executive and the Executive accepts employment as President and Chief Executive Officer of the Hospital, in accordance with the terms set out in this Agreement.
- 1.02 **Term.** Provided that the Executive has met the conditions outlined in Section 1.03, the Executive shall begin performing the duties of President and Chief Executive Officer commencing on October 10, 2017. The Executive's employment shall be for a period of five years commencing October 1, 2017 subject to termination in accordance with Section 5 of this Agreement and subject to the negotiation, after April 1, 2022, of a renewal Agreement, if any.
- 1.03 **Conditions Precedent.** This Agreement is conditional on:
- (a) the Hospital completing a pre-hire background check on the Executive, including a criminal background check, which confirms that the Executive has never been convicted of a criminal offence for which she has not been pardoned.

SECTION 2 – RESPONSIBILITIES, REPORTING AND LOCATION

- 2.01 **Responsibilities.** The Executive shall be responsible for duties as described in the position description for the Hospital's President and Chief Executive Officer. The Executive acknowledges she has received a copy of the position description. In addition to the duties and responsibilities associated with this position, the Executive shall perform such other duties and responsibilities as are consistent with the duties and responsibilities of a President and Chief Executive Officer or as may be assigned by the Board of Directors from time to time.
- 2.02 **Reporting.** In her capacity as President and Chief Executive Officer the Executive shall report to the Board of Directors of the Hospital. The Executive acknowledges and agrees that the Hospital may from time to time modify the reporting relationships of its executives, including the Executive.
- 2.03 **Location.** The Executive shall work from the Hospital's offices located at 596 Davis Drive, Newmarket, Ontario. The Executive shall reside within a reasonable daily commuting distance of the place of employment. The Executive acknowledges that, due to the nature of the Hospital's operations and business, she may from time to time be required to travel extensively in the course of performing her duties and responsibilities under this Agreement.
- 2.04 **Service as Officer or Director.** The Executive shall, if requested, also serve as a member of the Board or as an officer or director of the Hospital or any affiliate of the Hospital for no additional compensation.
- 2.05 **Directors' and Officers' Liability.** During and after the term of this Agreement, the Hospital shall:
- (a) if the Executive serves as a director or officer of the Hospital or an affiliate of the Hospital, in addition to any protection under the by-laws of the Hospital or the affiliate, as applicable, maintain for the Executive's benefit directors' and officers' liability insurance in respect of the period during which the Executive is or was a director or officer of the Hospital or affiliate at levels commensurate with the size and business of the Hospital or affiliate; and
 - (b) indemnify and hold the Executive harmless with regard to any action or inaction of the Executive as an officer, director or employee of the Hospital or its affiliate, or as a fiduciary of any benefit plan of the Hospital or its affiliates, subject to any limitations on such indemnification imposed by applicable law.
- This Section 2.05 shall survive any termination of this Agreement or the Executive's employment hereunder.
- 2.06 **Resignation as Officer or Director.** Notwithstanding any provision of this Agreement or any other agreement or document to the contrary, the Executive shall be deemed to have resigned as an officer or director of the Hospital or affiliate of the Hospital contemporaneously with the termination of her employment with the Hospital for any reason, and shall, immediately upon request by the Hospital, sign any and all documents necessary to give effect to such resignation.

SECTION 3 – STANDARD OF PERFORMANCE AND FIDUCIARY DUTY

- 3.01 **Standard of Performance.** The Executive shall perform her duties in accordance with the by-laws and policies of the Hospital, and all applicable laws and regulations. The Executive shall devote the whole of her time, attention and ability to the business and affairs of the Hospital and shall use her best efforts to promote and further the business, profitability and reputation of the Hospital.
- 3.02 **Fiduciary Duty.** The Executive agrees to act diligently, loyally and in a trustworthy manner to the best of her knowledge, skill and ability. The Executive acknowledges that she is a fiduciary of the Hospital and that she shall at all times act in the best interests of the Hospital.
- 3.03 **Conflict of Interest.** The Executive shall ensure that her direct or indirect personal interests do not, whether potentially or actually, conflict with the interests of the Hospital. The Executive agrees to promptly report any potential or actual conflicts of interest to the Board of Directors in accordance with and subject to the Hospital's code of conduct as may be amended from time to time. The Executive represents and warrants to the Hospital that she is not subject to any constraints that would prevent her from performing the duties and responsibilities contemplated under this Agreement or from devoting her full time and attention to the affairs of the Hospital.
- 3.04 **Representation by Executive.** The Executive agrees that during her employment with the Hospital, she shall not breach any obligation of confidentiality or non-solicitation or non-competition she may have to any former employer or pursuant to any agreement with a third party to which she is bound. For greater certainty, the Executive agrees that she shall not bring with her in the performance of her employment duties with the Hospital, any confidential information, trade secrets, equipment, computer software or intellectual property of any former employer or customer of any former employer which are not generally available to the public, unless the Executive has first obtained written authorization for its possession and use and provided confirmation in writing of such authorization to the Hospital. The Executive acknowledges that the Hospital has relied upon the representations outlined in this Section 3.04, and agrees that any misrepresentation shall be considered Cause for termination.

SECTION 4 – COMPENSATION AND BENEFITS

- 4.01 **Base Salary.** The Executive shall be paid an annual base salary of \$412,000.00 ("Base Salary"). The Base Salary shall be reviewed by the Hospital on an annual basis and may be increased at the sole discretion of the Hospital as subject to any restrictions imposed by law. The Base Salary shall be paid in accordance with the Hospital's normal payroll practices in effect from time to time.
- 4.02 **Annual Incentive Payment.** In addition to the Base Salary, each year the Executive shall have the opportunity to earn an incentive payment (the "**Incentive Payment**") based on the attainment of certain corporate and individual performance objectives to be specified by the Hospital at the outset of the particular year. Under such plan, the Executive shall have the opportunity of earning up to 10% of her Base Salary. Payment of the Incentive Payment will be subject to the terms of the Hospital's Management Performance Plan (the "**Annual Incentive Plan**"), as developed, amended and superseded from time to time. Notwithstanding any provision of this Agreement or the Annual Incentive Plan to the contrary, to be eligible to receive an Incentive Payment for a particular year the Executive must be actively employed by the Hospital on the date that Incentive Payments for that year are paid to other similarly situated executives of the Hospital. For this purpose, the Executive's active employment is deemed to cease on her Termination Date.
- 4.03 **Retirement Savings.** The Executive shall be eligible to participate in the Hospitals of Ontario Pension Plan ("HOOPP") subject to and in accordance with the terms and conditions of the HOOPP, as amended from time to time.
- 4.04 **Benefits.** The Executive shall be eligible to participate in the Hospital's health and dental, life insurance and other group benefit plans generally available to its executives from time to time (the "Executive Benefit Plans") in accordance with the terms of the Benefit Plans and applicable policies, as amended from time to time. The Executive acknowledges a current copy of the plan has been provided to her. The hospital agrees to waive the three month waiting period for the benefit plans based on the policy.
- 4.05 **Vacation.** The Executive shall be entitled to five (5) weeks' paid vacation in each year of employment with the Hospital, pro-rated for partial years. Such vacation must be taken at a time or times acceptable to the Hospital having regard to the Hospital's operations. All vacation entitlement must be taken in the year it is granted. The Executive shall not be entitled to carry forward any unused vacation to a future vacation year, and any such unused vacation shall be forfeited unless authorized at the sole discretion of the Hospital. Notwithstanding the foregoing, the Executive shall receive no less vacation each year than is required under the *Employment Standards Act, 2000*.
- 4.06 **Expenses.** The Executive shall be reimbursed for all reasonable travelling, entertainment and other out-of-pocket business expenses actually and properly incurred by her in connection with her duties hereunder provided same have been authorized in advance by the Board or its Designate. For all such expenses in respect of which the Executive seeks reimbursement, the Executive shall furnish to the Hospital detailed statements satisfactory to the Hospital evidencing the claimed

expense, its amount and proof of payment, as and when required by the Hospital, in accordance with the Hospital's expenses policy in effect from time to time.

- 4.07 **Membership Fees.** The hospital will pay the cost of the Executive's membership fees to professional organizations during the term of this agreement as required for the role of President and Chief Executive Officer up to a maximum of \$5,000 per year.
- 4.08 **Unilateral Right to Amend.** For greater certainty and without limitation to the provisions of the relevant plans and policies, the Executive acknowledges and agrees that the Hospital reserves the right in its sole discretion to unilaterally amend or terminate any employee plan, program, arrangement or policy in which the Executive participates or may become eligible to participate without notice or compensation to the Executive including, without limitation, the Annual Incentive Plan, and Executive Benefit Plans.

SECTION 5 – TERMINATION AND RESIGNATION

- 5.01 **Termination by the Hospital.** This Agreement and the Executive's employment may be terminated by the Hospital any time:
- (a) for Cause, as provided for in Section 5.02; and
 - (b) without Cause, as provided for in Section 5.03.
- 5.02 **Termination for Cause.** In the event of termination for Cause, the Executive shall receive the Accrued Amounts and nothing further. For greater certainty, the Hospital shall have no other obligations to the Executive, save and except for any obligations under the *Employment Standards Act, 2000*, and, for clarity, without limiting the foregoing, the Executive shall not be entitled to any Incentive Payment or *pro rata* Incentive Payment not already paid on or before the date the Executive ceases to perform services for the Hospital.
- 5.03 **Termination without Cause.**
- (a) The Hospital may terminate this Agreement without Cause at any time. In such event, the Executive shall not receive working notice of termination, but instead the following shall apply:
 - (i) The Executive shall receive, in the form of Base Salary continuance, twelve (12) months of Base Salary, less applicable statutory deductions.

If the Ministry of Health and Long Term Care or any governmental authority causes the Hospital to merge with another Hospital during the term of the employment agreement resulting in the termination of the Executive without just cause, the Hospital shall pay the Executive in the form of Base Salary continuance, the lesser of eighteen (18) months of Base Salary or the balance of the term of the contract which shall be no less than twelve (12) months.
 - (ii) The Executive shall receive amounts payable prior to the Termination Date in accordance with the Annual Incentive Plan. The Executive acknowledges and agrees that she shall not be entitled to receive any Incentive Payment or *pro rata* Incentive Payment under the Annual Incentive Plan which is payable after the Termination Date, even if such bonus is payable prior to *the expiry* of the salary continuation specified in sub-paragraph 5.03(a)(i) above. The Executive further acknowledges and agrees that she shall not be entitled to receive any compensation or damages whatsoever in lieu thereof, including in respect of any period of notice of termination under the common law or contract (e.g. wrongful dismissal damages);
 - (iii) The Executive shall, subject to and in accordance with the terms of the applicable Benefit Plan, receive health and dental coverage for the earlier of the period specified in sub-paragraph 5.03(a)(i) or until the Executive obtains alternate employment. At no time shall the benefits

be discontinued before the end of the period corresponding to the statutory notice period as required under the *Employment Standards Act, 2000*;

- (iv) The Executive shall receive short or long-term disability benefit and life insurance coverage only during the period corresponding to the statutory notice period as required under the *Employment Standards Act, 2000*;
 - (v) The Executive shall, subject to and in accordance with the terms of the applicable Retirement Plan, participate in the HOOPP during the period specified in sub-paragraph 5.03(a)(i) or until the Executive obtains alternate employment. At no time shall the Retirement Plan participation be discontinued before the end of the period corresponding to the statutory notice period as required under the *Employment Standards Act, 2000*;
 - (vi) If, at the time of termination of employment, the Executive is in receipt of short-term disability or long-term disability benefits, the amount of such benefits received by the Executive during the period specified in sub-paragraph 5.03(a)(i) shall be deducted from the amount of compensation in lieu of notice otherwise payable under this section. At no time, however, will the Executive receive less than her minimum entitlements under the *Employment Standards Act, 2000* by virtue of the application of this provision.
- (b) **Mitigation.** The Executive's entitlements under this section are subject to her obligation to take active steps to seek and accept reasonable alternative employment during the period to which the Executive is entitled to payments from the Hospital post-termination, and to notify the Hospital immediately upon accepting alternative employment or upon becoming self-employed. In the event that the Executive obtains weekly income from employment or self-employment during said period at a rate of 75% or greater than the weekly portion of her Base Salary with the Hospital, the Executive's entitlement to payments from the Hospital shall be reduced by 50% for the amount of unpaid salary continuation, except that the Executive's entitlements from the Hospital shall not be less than the minimum entitlements mandated by the *Employment Standards Act, 2000*.
- (c) **Reasonableness.** The Executive acknowledges and agrees that the payments and benefits described in Section 5.03 herein constitute reasonable compensation in lieu of notice of the termination of her employment, and are inclusive of any vacation pay, termination pay and severance pay that may be owing under the *Employment Standards Act, 2000*. Upon the Hospital providing the Executive with such payments and benefits, the Executive shall not be entitled to any further notice, payment in lieu of notice, termination pay, severance pay, damages, costs or compensation in respect of her employment or the termination thereof, whether under statute, common law or contract.

- 5.04 **Death of Executive.** This Agreement shall automatically terminate if the Executive dies during the term of this Agreement. In that event, no compensation shall be owed by the Hospital to the Executive or her estate other than the Accrued Amounts, if any, and any amounts that may be owing under the *Employment Standards Act, 2000*.
- 5.05 **Resignation by Executive.** The Executive shall be entitled to terminate this Agreement and her employment with the Hospital, at any time and for whatever reason, upon providing two (2) months' written notice to the Hospital. The Hospital shall be entitled, in its sole discretion, to accept such resignation effective immediately and pay to the Executive the applicable salary during the two (2) month resignation notice period, in which case the Hospital shall continue the Executive's benefits only as required under the *Employment Standards Act, 2000*. The Executive will receive the Incentive Payment provided the date of payment of the Incentive to all eligible executives occurs during the two (2) month resignation notice period. The Hospital shall have no other obligations to the Executive and, except to the limited extent provided above, the Executive shall not be entitled to any Incentive Payment or *pro rata* Incentive Payment not already paid on or before the Termination Date.
- 5.06 **Disability.** In any of the following circumstances and subject to the provisions of the Human Rights Code, the Executive's employment shall be deemed to be 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 Executive for notice of termination or severance, other than the Accrued Amounts, if any, and any amounts that may be owing for notice of termination or severance pay under the *Employment Standards Act, 2000*:
- (a) a majority of the Board determine that the Executive has been unable, due to illness, disease, mental or physical disability or similar cause, to fulfil her obligations as an executive or officer or director of the Hospital either: (i) for any consecutive 12-month period; or (ii) for any period of 16 months (whether or not consecutive) in any consecutive 24-month period; or
 - (b) a court of competent jurisdiction has declared the Executive to be mentally incompetent or incapable of managing her affairs.
- 5.07 **Return of Property.** Upon any termination of this Agreement, the Executive must at once deliver or cause to be delivered to the Hospital all data, equipment (including computer, telephone and mobile/smartphone/tablet computer), books, documents, effects, money, security or other properties belonging to the Hospital or for which the Hospital is liable to others, which are in the possession, charge, control or custody of the Executive.

SECTION 6 – CONFIDENTIALITY

- 6.01 As a consequence of her employment with the Hospital, the Executive shall have access to Confidential Information. "Confidential Information" includes, without limitation, any information about an identifiable person, research, business, financial, technical or other information that is not readily available to the public nor a matter of public record.
- 6.02 The Executive acknowledges that she is provided access to Confidential Information for the sole purpose of performing her duties and responsibilities as an Executive of the Hospital, and any other use is strictly prohibited. Furthermore, the Executive agrees that she shall not use, disclose or make available to any person any Confidential Information obtained by her in the course of her employment, except as is necessary for the performance of her duties and responsibilities as an employee of the Hospital.
- 6.03 The Executive agrees that she shall take all reasonable measures to protect the Confidential Information, including appropriate physical and operational safeguards. In the event that Confidential Information is lost, stolen or otherwise compromised, the Executive must immediately report such loss or theft or compromise to the Board of Directors of the Hospital.
- 6.04 At the end of the Executive's employment with the Hospital, the Executive shall be required to return all Confidential Information to the Hospital, including any devices or other equipment upon which Confidential Information has been stored.
- 6.05 The Executive agrees and understands that any disclosure or use by her of any Confidential Information, other than the terms contemplated herein, shall cause irreparable harm and damage to the Hospital. The Executive hereby has notice that the Hospital may, at its option, pursue any and all remedies in law or in equity to which it may be entitled.
- 6.06 This Section 6 shall survive any termination of this Agreement or the Executive's employment hereunder.

SECTION 7 – NON-SOLICITATION

- 7.01 **Non-solicitation.** The Executive shall not, in any manner, directly or indirectly, solicit or otherwise induce any other employee of the Hospital to leave his/ her employment with the Hospital whether to join a competing business or for any other reason during her employment or for a period of twelve (12) months following termination of employment.
- 7.02 **Non-Disparagement.** The Executive agrees that during the term of this Agreement and after its termination, she shall not make, nor cause to be made, directly or indirectly, any disparaging or derogatory statements about the Hospital or Southlake Regional Health Centre, and the Executive shall not make, or cause to be made, directly or indirectly, any disparaging or derogatory statements about the directors, officers, employees, shareholders or agents of the Hospital or Southlake Regional Health Centre.
- 7.03 **Notification to Prospective Employer.** The Executive agrees to provide written notice to any prospective employer of the existence and terms of this section in writing and to provide a copy of such notice to an officer of the Hospital.
- 7.04 **Injunctive Relief and Specific Performance.** The Executive acknowledges and agrees that any breach by the Executive of Sections 7.01 and 7.02, of this Agreement shall cause the Hospital irreparable harm which would not be adequately compensable in damages. Therefore, in addition to any other rights or remedies available to the Hospital at law or otherwise, the Hospital shall be entitled to apply to a court of competent jurisdiction for relief. Such relief may include but is not limited to an injunction, restraining order or otherwise as may be appropriate to ensure compliance by the Executive with the provisions contained in this Agreement, and is without prejudice to any other remedy that the Hospital may have in law, in equity, by statute or otherwise.
- 7.05 **Reasonableness of Restrictions.** The Executive agrees that all of the restrictions contained in Section 7 herein are necessary and fundamental to the protection of the business as carried on by the Hospital and that all such restrictions are fair, reasonable and valid given the nature of the Hospital's business and the Executive's position within that business. The Executive further confirms that these obligations will not unduly preclude the Executive from becoming gainfully employed or from otherwise working following the termination of this Agreement.
- 7.06 This Section 7 shall survive any termination of this Agreement or the Executive's employment hereunder.

SECTION 8 – GENERAL

- 8.01 **Deductions Required By Law.** All amounts paid under this Agreement shall be paid in the lawful currency of Canada less applicable withholdings.
- 8.02 **Entire Agreement.** This Agreement is the entire agreement between the parties and replaces all prior agreements or understandings. There is no term, condition, warranty or representation, collateral or otherwise, that may govern the employment relationship, other than those contained in this Agreement. Any modifications or amendments to this Agreement shall be made in writing and signed by both parties. For greater certainty, the parties agree that Appendix "A" forms part of this Agreement.
- 8.03 **Independent Legal Advice.** The Executive acknowledges that she has read and understood this Agreement, and has been given an opportunity to seek independent legal advice with respect to its terms.
- 8.04 **No Inducement.** The Executive represents and warrants to the Hospital that she has not been enticed or otherwise induced by the Hospital to leave otherwise secure employment elsewhere to accept employment under this Agreement.
- 8.05 **Prior Employment.** The Executive agrees that the Hospital shall not give the Executive any recognition of prior service with any prior employer.
- 8.06 **Severability.** If any section, subsection, paragraph or sub-paragraph of this Agreement is found to be void or unenforceable in any legal proceeding, said provision shall be deemed to be severed from the remainder of this Agreement for the purposes only of the particular proceeding. The Agreement shall, in all other respects, continue in full force and effect.
- 8.07 **No Waiver.** No failure to exercise and no delay in exercising any right or remedy under this Agreement shall be deemed to be a waiver of that right or remedy. No waiver of any right or remedy under this Agreement nor any breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent reliance upon such right or remedy nor a waiver of any subsequent breach of that provision or of any similar provision.
- 8.08 **Minimum Standards Legislation.** For greater certainty, should any provision of this Agreement provide entitlements to the Executive that are less than her entitlements under the *Employment Standards Act, 2000*, the entitlements under the *Employment Standards Act, 2000* shall prevail.
- 8.09 **Successor and Assigns.** This Agreement shall be binding upon the Executive and the Executive's respective heirs, executor(s), successors and assigns.
- 8.10 **Survival.** Upon the termination of this Agreement, the respective rights and obligations of the parties hereto shall survive such termination to the extent necessary to carry out the intentions of the parties under this Agreement including, without limitation, Sections 2.05, Section 6, and Section 7

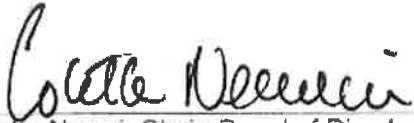
- 8.11 **Interpretation.** The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and the Agreement shall be interpreted without regard to any presumption or other rule requiring interpretation of the Agreement more strongly against the party causing it to be drafted.
- 8.12 **Headings in Agreement.** The headings in this Agreement are solely for convenience of reference and shall not affect its interpretation.
- 8.13 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the province of Ontario and the federal laws of Canada applicable therein.
- 8.14 **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 delivery, email, facsimile or registered mail to the recipient as follows:

To the Executive:

To the Hospital:


IN WITNESS WHEREOF this Agreement has been signed by the parties hereto on the dates set out below:

Dated at [location] this [date] day of [month], [year].



Colette Nemni, Chair, Board of Directors

Southlake Regional Health Centre



Witness



Arden Krystal

Executive



Witness

APPENDIX "A"
DEFINED TERMS

For the purpose of the Agreement, the following terms shall have their corresponding meaning:

"Accrued Amounts" means the sum of the following amounts, as applicable, as of the Executive's Termination Date:

- (a) accrued but unpaid Base Salary;
- (b) earned but unused vacation pay; and
- (c) reimbursement in accordance with Section 4.06 for unreimbursed business expenses properly incurred by the Executive.

"Board" means the board of directors of the Hospital.

"Cause" means:

- (a) the existence of cause for termination of employment at common law as determined by the law of the province of Ontario, including but not limited to fraud, theft, dishonesty, illegality, breach of statute or regulation, conflict of interest, or gross incompetence; or
- (b) the Executive breaches the obligation set out in Section 7.02; or
- (c) the Executive failing to meet any of the conditions precedent set out in Section 1.03, 7.02 or
- (d) any misrepresentation by the Executive with respect to the matters set out in Section 3.04; or
- (e) the Executive has breached any other material obligation under this Agreement and has failed to rectify such breach within ten (10) days of provision of written notice to do so by the Hospital.

"Termination Date" means:

- (a) in the case of termination of the Executive's employment on account of the Executive's death, the date of the Executive's death;
- (b) in the case of termination by the Hospital without Cause (whether such termination is lawful or unlawful), the later of (i) the last day worked by the Executive excluding any period of contractual or common law notice of termination, and (ii) the last day of the period during which the Executive is entitled to notice of termination (or termination pay in lieu of notice) under the *Employment Standards Act, 2000*;
- (c) in the case of termination by the Hospital for Cause, the date on which the Executive receives written notice from the Hospital setting out the basis for her termination for Cause; and

- (d) in the case of the resignation or retirement by the Executive, the last day worked by the Executive.

