

**AMENDED AND RESTATED EMPLOYMENT AGREEMENT**

(the “Agreement”)

**BETWEEN:**

**THE BRANT COMMUNITY HEALTHCARE SYSTEM**

(the “Hospital”)

-and-

**ALENA LUKICH**

(the “Employee”)

**WHEREAS** the Employee is employed by the Hospital pursuant to an employment agreement dated January 10, 2020 (the “First Employment Agreement”);

**AND WHEREAS** the Employee and the Hospital wish to enter into this amended and restated employment agreement to confirm their mutual rights and obligations;

**AND WHEREAS** it is agreed that upon the Employee’s execution of this Agreement, this Agreement shall supersede and replace any and all prior written and/or verbal employment agreement(s) in respect of the Employee’s employment at the Hospital, including the First Employment Agreement;

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the sufficiency of which is acknowledged, it is mutually agreed as follows:

1. **Employment.** The Hospital shall continue employing the Employee as a Full member of the executive team, provided that either party may terminate this Agreement in accordance with Article 5. Effective October 1, 2023 the title of the role will change from Chief Strategy, Quality, Risk and Communications Officer to Vice President Strategy, Quality, Risk & Communications.
2. **Employment Duties and Responsibilities.** The Employee shall serve full-time as the Vice President Strategy, Quality, Risk & Communications of the Hospital. The Employee agrees to fully and faithfully perform all the duties associated with this position, including such duties and responsibilities consistent with this or a comparable position as may be assigned by the Hospital. The Employee agrees that this is a critical position as such will include carrying out the duties in the evenings and weekends, as may be required from time to time, in addition to regular business hours. The Employee further agrees to adhere to all applicable legislation and employment rules, policies and codes of the Hospital, as established and amended from time to time by the Hospital. The Employee will be accountable to the President and Chief Executive Officer (“CEO”).

3. **Fiduciary Duties and Conflict of Interest.** The Employee agrees to act diligently, loyally and honestly to the best of his knowledge, skill and ability. The Employee shall devote his full working time and attention exclusively to serving the Hospital, and shall use his best efforts to promote the interests of the Hospital. During the term of this Agreement, the Employee shall not at any time engage, either directly or indirectly in any other business or occupation of a permanent, temporary, or part-time nature, without the prior written approval of the Hospital.

The Employee will ensure that his personal interests do not, whether potentially or actually conflict with the Hospital's interests. The Employee agrees to promptly report any potential or actual conflicts of interest to the President and Chief Executive Officer ("CEO"). For greater certainty, a conflict of interest includes, but is not expressly limited to, the following:

- (a) Private or pecuniary interest in an organization with which the Hospital does business;
- (b) Private or pecuniary interest, direct or indirect, in any concern or activity of the Hospital of which the Employee is aware or ought reasonably be aware.

For the purposes of this section, a pecuniary interest(s) includes the pecuniary interest of the Employee's parent, spouse, spousal partner, child or a private corporation of which the Employee is the sole shareholder, director, or senior officer which has not been properly disclosed to the Hospital.

4. **Remuneration and Benefits.** The Hospital agrees to pay and provide the Employee, and the Employee agrees to accept in full consideration for his services to the Hospital, the following:

- (a) An annual base salary of \$205,850 (as adjusted from time to time, the "Base Salary"), retroactive to October 1, 2023. The Base Salary shall fully compensate the Employee for all hours worked in the capacity outlined in Section 2, less appropriate deductions. The Base Salary shall be reviewed by the Hospital in accordance with Hospital policy, as deemed appropriate, taking into account, among other things, the results of the Employee's annual performance review for the previous year, the approved BCHS Executive Compensation Framework and relevant market data including the OHA Salary Survey and Broader Public Sector (BPS) guidelines - including the annual performance review which shall include performance based compensation related to the Quality Improvement Plan (QIP) and other specified goals as set out in the Pay for Performance Agreement and any applicable legislation or regulation.
- (b) Five (5) weeks of paid vacation per fiscal year and paid holidays in accordance with Hospital policy.
- (c) Participation in the Hospital's group employee benefit plans as described in the Executive Group, Your Group Benefits booklet in accordance with the terms of these plans and arrangements. The Hospital reserves the right to reasonably amend the plans at any time with reasonable notice to the Employee and the resulting plans

may be substantially similar to the current plans. It is understood that the Hospital's sole liability is to pay the cost of premiums or other costs which the Hospital has agreed to undertake and that the Hospital does not assume the role of insurer.

- (d) Use of a cell phone and personal corporate portable computer to carry out the duties and responsibilities of his position. With respect to the use of the cell phone, reasonable usage fees incurred will be borne by the Hospital. With respect to the personal computer, reasonable upgrades will be permitted by the President and Chief Executive Officer ("CEO") every two to three years.

Immediately following the Employee's termination of employment, the Employee shall return these items to the Hospital and any related equipment and any other Hospital property then in possession of the Employee at the date of termination.

This provision will be waived where the Employee has provided the Hospital notice in accordance with Section 5(c) of this Agreement and where the Employee's employment is terminated without cause, or in the event that the Employee retires. Otherwise, these items may be purchased at their fair market value at the date of termination.

- (e) Payment in full of up to two (2) of the Employee's annual professional association fees or premiums;
- (f) Participation in the Hospitals of Ontario Pension Plan (HOOPP), in accordance with its terms and conditions, may be amended from time to time.
- (g) Reimbursement, in accordance with Hospital policy, of reasonable business expenses incurred by the employee upon receipt of documentation substantiating those expenses.
- (h) Where the Employee elects retirement (i.e. at age 55 or older), the Hospital will maintain the current level of group benefits received by the Employee and its contribution in the same proportion of premiums paid for extended health insurance, dental insurance, travel and semi-private insurance up to age sixty-five (65).
- (i) Reasonable expenses to support the Employee's ongoing development and education as approved by the Hospital. The Employee agrees to participate in and complete such educational training as may be required to maintain his competency.
- (j) The Hospital shall provide the Employee with an annual Healthcare Spending Account of Three Thousand Five Hundred Dollars (\$3,500.00).

5. **Termination.** The Employee's employment may be terminated as described below. The Employee will always receive all wages that are earned and payable, any accrued vacation pay and benefits up to the Employee's last day of employment.

- (a) By the Hospital for cause, by complying with only the applicable minimum requirements of applicable employment standards legislation, as amended or

replaced (all such legislation referred to as the “ESA”) in respect of the termination of the Employee’s employment (including, without limitation, all ESA requirements in respect of notice, termination pay, severance pay, wages, benefits and vacation pay). Benefits will only continue during any period required by the ESA.

- (b) By the Hospital, subject to the requirements of the *Human Rights Code*, where it determines that the Employee has been unable, due to illness, disease, mental or physical disability or similar cause, to fulfil her or his obligations to the Hospital either: (i) for any consecutive 12-month period; or (ii) for any period of 18 months (whether or not consecutive) in any consecutive 36-month period. In the event of termination pursuant to this sub-paragraph, the Hospital shall provide the Employee with only the applicable minimum requirements of the ESA in respect of the termination of the Employee’s employment (including, without limitation, all ESA requirements in respect of notice, termination pay, severance pay, wages, benefits and vacation pay). Benefits will only continue during any period required by the ESA.
- (c) By the Employee, upon the giving of two (2) months’ prior written notice to the Hospital. The Hospital, in its sole discretion, may waive the notice, in whole or in part, in which case the Employee’s employment will terminate immediately as of the date the Hospital waives the notice. If the Hospital waives all or a portion of this notice, the Hospital shall continue to pay the Employee his salary and continue his benefit coverage, until the end of the notice period (which shall not be longer than (2) months).
- (d) By the Hospital without cause, at any time, by providing the Employee with:
  - (i) Only the applicable minimum requirements of the ESA in respect of the termination of the Employee’s employment (including, without limitation, all ESA requirements in respect of notice, termination pay, severance pay, wages, benefits and vacation pay). Benefits will only continue during any period required by the ESA; or
  - (ii) If the Employee signs a full and final release, in a form substantially similar to the form of release attached hereto at Schedule “A”, within 7 days of the last day of the Employee’s employment as specified in the Hospital’s written notice to the Employee, Base Salary continuance, together with group benefit and HOOPP continuance (with the exception of short term disability, long term disability, life insurance coverage, and any other perquisites, which shall only continue for the minimum period required under the ESA), for a period of twelve (12) months, plus one additional month per completed year of service beyond twenty-four (24) months of employment, to a cumulative maximum of eighteen (18) months (the “Salary Continuance Period”).

The Employee’s entitlements under sub-paragraph 5(ii) are subject to her or his obligation to take active steps to seek and accept reasonable alternative employment during the Salary Continuance Period, and to notify the

Hospital immediately upon accepting alternative employment or upon becoming self-employed. In the event that the Employee obtains income from employment or self-employment during the Salary Continuance Period on an annualized basis of not less than 75% of the Employee's current Base Salary at the time of termination, the Employee's entitlement to salary continuance payments, benefit and HOOPP continuance shall cease upon the later of: (a) immediately, or (b) the minimum period required by the ESA; and the Employee will receive a one-time lump sum early new employment bonus payment equal to the greater of the following amounts: (x) 50% of the remaining salary continuance payments that the Employee would have been paid under sub-paragraph 5(ii) if the Employee had not obtained other employment; or (y) the minimum amount required to comply with the ESA plus \$100.

The Employee acknowledges and agrees that the payments and benefits described in Article 5 fully satisfy the Hospital's and all affiliates' obligations to the Employee in respect of the termination of the Employee's employment, and the Employee will not be entitled to further notice of termination, severance pay, incentive compensation, damages or other compensatory payments under common law or contract. By signing below, the Employee agrees to receive any applicable required ESA severance pay via installments, in accordance with the Hospital's payroll practices, as amended from time to time. For the avoidance of doubt, in the event of any conflict between Article 5 and the requirements of the ESA, the requirements of the ESA shall govern to the extent of the conflict. The termination arrangements set out in Article 5 will remain in full force and effect regardless of the Employee's length of employment and any changes to the terms and conditions of the Employee's employment, including, without limitation, any promotions; reassignments; increases in remuneration or responsibilities; or changes to job title, work location or reporting relationships.

6. **Employer's Liability Upon Termination.** Upon the termination of this Agreement under any provision herein, the Hospital shall have no liability or obligation whatsoever to the Employee or to the Employee's personal representative, estate, heirs, beneficiaries or any other person claiming by, under or through Employee, except for any unpaid Base Salary and benefits accrued up to the date of termination, and for any payments under the express terms of Article 5 above. Under no circumstances whatsoever (including, without limitation, the Hospital's breach or default under this Agreement or the termination of the Employee's employment without cause), shall the Hospital's liability under this Agreement exceed the amounts payable in accordance with the provisions of Article 5.

In the event of any material changes in the duties and responsibilities of the Employee's position arising from restructuring, integration and/ or amalgamation of the Hospital system, either provincially or locally, the Employee will be entitled to immediately invoke the termination provision of this Agreement in accordance the terms specified in Article 5 above for termination without cause.

7. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, notwithstanding the fact that any party may now or hereafter be domiciled in a different province, country or jurisdiction.

8. **Waiver of Breach.** The waiver of a breach of any provision of this Agreement will not 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, will be limited to the specific breach waived.
9. **Severability, Interpretation and ESA Failsafe.**
  - (a) If any of the provisions or parts of a provision of this Agreement or the application thereof to any party under any circumstances is adjudicated to be invalid or unenforceable such invalidity or unenforceability shall not affect any other provision or part of a provision of this Agreement or the application thereof.
  - (b) The Employee and the Hospital will comply with the ESA. Accordingly, this Agreement will: (i) not be interpreted as in any way waiving or contracting out of the ESA; and (ii) be interpreted to achieve compliance with the ESA. This Agreement contains the parties' mutual understanding and there shall be no presumption of strict interpretation against either party.
  - (c) It is understood and agreed that all provisions of this Agreement are subject to all applicable minimum requirements under the ESA. In the event that the ESA provides for superior entitlements upon termination of employment or otherwise ("**Statutory Entitlements**") than provided for under this Agreement, the Hospital shall provide the Employee with the Employee's Statutory Entitlements in substitution for the Employee's rights under this Agreement.
10. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and supersedes and completely and irrevocably terminates any and all other provisions or contemporaneous communications, representations, understandings, agreements, negotiations and discussions, either oral or written, between the parties. The parties acknowledge and agree that there are not written or oral agreements, understandings or representations, directly or indirectly related to this Agreement or the employment compensation or benefits of the Employee that are not set forth herein.
11. **Hospital's Property and Confidentiality Agreement.** The Employee acknowledges that all items of any and every nature or kind created or used by the Employee pursuant to the Employee's employment under this Agreement, or furnished by the Hospital to the Employee, and all equipment, software, credit cards, books, records, report, files, 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 Hospital, in good condition, promptly on the termination of the Employee's employment irrespective of the time, manner or cause of the termination, unless explicitly stated otherwise in this Agreement.
12. **Ownership of Information and Non-Disclosure.**
  - (a) "Confidential Information" includes, without limitation, information and facts relating to the operation and affairs of the Hospital acquired by the Employee in the course of his employment, including information and facts relating to the present

and contemplated services, future plans, processes, procedures, suppliers, capital projects, financial information of all kinds, government relations strategies, patients or their health records, any product, device, equipment or machine, or employees. For greater clarity, Confidential Information shall not include:

- (i) Information and facts that are available to the public or in the public domain at the time of such disclosure or use, without breach of this Agreement; or
  - (ii) Information and facts that becomes available to the Employee on a non-confidential basis from a source other than the Hospital.
- (b) All Confidential Information of the Hospital, whether it is developed by the Employee during his period of employment or by others employed or engaged by or associated with the Hospital, it is the exclusive property of the Hospital and shall at all times be regarded, treated and protected as such.
  - (c) The Employee shall not disclose Confidential Information to any person or Confidential Information (other than necessary in carrying out his duties on behalf of the Hospital) at any time during or subsequent to his period of employment without first obtaining the consent of the Board, and the Employee shall take all reasonable precautions to prevent inadvertent disclosure of any such Confidential Information.
  - (d) Within five (5) days after the termination of the Employee's employment by the Hospital for any reason, or upon receipt of a written request from the Hospital, the Employee shall promptly deliver to the Hospital all property belonging to the Hospital, including without limitation all Confidential Information (in whatever form) that is in the Employee's possession or under the Employee's control.
  - (e) Nothing in this Section precludes the Employee from disclosing Confidential Information at any time if disclosure of such Confidential Information is required by 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.
  - (f) The Employee agrees to execute and abide by the Hospital's Pledge of Confidentiality with respect to records and patient information.
13. **Amendment of Agreement and Review.** This Agreement may be altered or amended in any of its provisions only by the mutual written agreement of the parties hereto. This Agreement may not be amended orally in any respect. The Hospital agrees to review this agreement every five (5) years from the date of its execution, or such earlier time, as it may deem advisable, for the purposes of ensuring its continued appropriateness. It is understood, however, that any amendments to the Agreement will be mutually agreed and in writing.
14. **Successors.** The Agreement shall inure to the benefit of the Hospital and its successors and assigns, but is personal to the Employee and may not be assigned or delegated, in whole or

in part, by the Employee. This Agreement shall be transferred and assigned by the Hospital and the Employee to any successor of the Hospital by acquisition, merger, reorganization, amalgamation, and sale or otherwise. Should the employee not be maintained as the Full Time Vice President Strategy, Quality, Risk & Communications, and at least preserving all provisions of this contract, the Employee is entitled to immediately invoke the termination provision of this agreement in accordance the terms specified in Article 5 above for termination without cause.

15. **Deductions.** The Hospital may withhold from any amounts payable under this Agreement as are required to be withheld pursuant to any applicable law or regulation, including any customary contributions to the costs of employee and pension benefits.
16. **Notice.** Any notice required to be given by either party shall be given in writing and shall be considered as adequate if sent by regular mail and addressed to the last known address of either party;
17. **Voluntary Act/Legal Counsel.** The Employee agrees and acknowledges that he has read and understood this Agreement prior to signing it, has entered into this Agreement freely and voluntarily and has been advised to seek independent legal advice prior to entering into this Agreement and has had ample opportunity to do so.
18. **Recitals.** The recitals to this Agreement are true and correct.



**IN WITNESS WHEREOF**, the parties have executed this Agreement effective on the 30th day of January, 2024.

Witnessed:



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Erin Sleeth  
Interim President and Chief Executive  
Officer  
Brant Community Healthcare System

Witnessed:



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Alena Lukich

## SCHEDULE "A"

### FORM OF RELEASE

**IN CONSIDERATION** of the terms and conditions as detailed in this letter, plus such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, I, **ALENA LUKICH**, on behalf of myself, my heirs, successors and assigns (hereinafter referred to as "Releasor"), hereby:

1. Release and forever discharge Brant Community Healthcare System, its subsidiaries, parents, divisions, and affiliates, and each of their past and present officers, directors, employees, servants, representatives and agents of any of the aforesaid entities and their predecessors, successors and assigns, (hereinafter collectively referred to as the "Releasees") jointly and severally from any and all actions, causes of action, complaints, applications, claims, demands and proceedings of whatever kind for damages, compensation, costs, notice of termination, pay-in-lieu of notice, termination pay, severance pay, pay, bonus, vacation pay, holiday pay, benefits, incentives, physical or mental disability, employment, reemployment, reinstatement, reprisal, indemnity, compensation, overtime, holiday pay, or any other remedy or entitlement which I or my successors, heirs, administrators or assigns had, may now have, or may have in the future arising out of my employment with the Releasees or the cessation of that employment, whether pursuant to the employment agreement, common law, statute, including but not limited to the *Employment Standards Act, 2000*, the *Human Rights Code*, the *Pay Equity Act*, or otherwise.
2. Acknowledge that:
  - a. signing this release is not a condition for me to first receiving money to which I would be otherwise entitled to by operation of law. I further acknowledge that the payment of the settlement monies by the Releasees to me is inclusive of and exhaustive of all possible claims for pay, notice of termination, pay-in-lieu of notice, termination pay, severance pay, bonus, overtime, compensation, employment, reemployment, reprisal, interest, benefits, vacation pay, holiday pay, or any other claim or entitlement, whether pursuant to the *Employment Standards Act, 2000*, the *Human Rights Code*, employment contract, common law, or otherwise.
  - b. any violation of my rights under the *Human Rights Code* related to my employment with the Releasees and/or the cessation of that employment are hereby settled and the consideration for the Release above is accepted in full and final satisfaction of the same. I agree not to make any Application under the *Human Rights Code* in respect of my employment with the Releasees and/or the cessation of that employment. In the event that a subsequent Application is filed under s. 34 of the *Human Rights Code* in respect of my employment with the Releasees and/or the cessation of that employment, this settlement shall apply to that Application and shall be treated as a settlement for the purpose of s.45.9 of the *Human Rights Code*.

3. Further agree that:

- a. I will not do anything to the detriment of the Releasees interests which includes making critical statements about the Releasees or its employees.
- b. I shall not disclose the facts of this settlement or agreement or the terms thereof to any third party, except my immediate family members, solicitor, my financial advisor, or except as required by law, without the consent of the Releasees;
- c. I have been afforded the opportunity to obtain legal advice with respect to the attached letter and with respect to this Full and Final Release, its meaning and execution; and,
- d. the settlement is not an admission whatsoever of liability on the part of the said Releasees.

Signed in Agreement at Brantford General Hospital, this 30<sup>th</sup> day of January, 2024



**Alena Lukich**

January 30th, 2024

Date



For the Hospital

January 30th, 2024

Date