

**EMPLOYMENT AGREEMENT**

(the Agreement )

dated this 1<sup>st</sup> day of October, 2010,

**BETWEEN:**

**Listowel Memorial Hospital  
&  
Wingham and District Hospital**

(the Hospitals)

- and -

**Karl Ellis**

(the Employee)

**WHEREAS** the Employee is being engaged by the Hospitals in the position of President and Chief Executive Officer (CEO);

**AND WHEREAS** the Employee and the Hospitals have agreed to enter into this Agreement to define their mutual rights and obligations;

**AND WHEREAS** it is agreed that this Agreement replaces any and all prior written and/or verbal employment Agreement(s);

**NOW THEREFORE**, in consideration of the Employee's employment with the Hospitals and the mutual promises and covenants contained herein, it is mutually agreed as follows:

1. **Employment Duties and Responsibilities** -The Employee shall serve full-time as the CEO and President of the Hospitals, effective **November 8, 2010**. 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 Board of Directors of the Hospitals. The Employee further agrees to adhere to all applicable legislation and employment rules, policies and codes of the Hospitals, as established and amended from time to time by the Hospitals.
  
2. **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 Hospitals, and shall use his best efforts to promote the interests of the Hospitals, subject to the control and direction of the Board. 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 Hospitals.

The Employee will ensure that his personal interests do not, whether potentially or actually, conflict with the Hospitals' interests. The Employee agrees to promptly report any potential or actual conflicts of interest to the Board. 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 Hospitals do business;
- (b) private or pecuniary interest, direct or indirect, in any concern or activity of the Hospitals of which the Employee is aware or ought reasonably to be aware.

For the purposes of this section, a pecuniary interest(s) includes the pecuniary interest of the Employee's parent, spouse, common law partner, child or a private

corporation of which the Employee is a sole shareholder, director, or senior officer which has not been properly disclosed to the Hospitals.

3. **Remuneration and Benefits** - The Hospitals agree to pay and provide the Employee, and the Employee agree to accept in full consideration for his services to the Hospitals, the following:

- (a) An annual base salary of \$ 175,000.00. In addition to the base salary, the employee shall be paid a bonus up to \$15,000.00, less appropriate payroll withholdings and deductions, based on performance objectives set by the Hospitals with input by the Employee. These performance objectives will be set following a 60 day review of the organization by the Employee, commencing on his start date. The bonus paid will also be in accordance with the principles and regulations of Bill 46 "Pay for Performance".

This salary shall be reviewed by the executive of the Board of Directors of the Hospitals on or about January 1<sup>st</sup> of each calendar year commencing January 2012, and may be adjusted effective April 1, 2012 and then as of January 1 each year thereafter), as it deems appropriate, taking into account, among other things, the results of the Employee's annual performance review for the previous year and relevant market data, including the OHA Salary Survey, subject to legislative restrictions including any public sector wage freeze.

- (b) **6 weeks of paid vacation** per fiscal year and paid holidays in accordance with the Hospitals' policy. The vacation must be used in the year designated and may not be carried forward, without written approval of the Board Chairs. Vacation not used will not be deemed to have any monetary value. Vacation must be taken in two week blocks at a maximum, unless the Board approves otherwise.

- (c) Participation in the Hospitals' group employee benefit plans as described in the Group Benefits summary in accordance with the terms of these plans and arrangements. The Hospitals reserve the right to reasonably amend or discontinue the plans at any time without notice to the Employee.
- (d) Use of a personal computer supplied by the Hospital at his home and a cell/black berry phone to carry out the duties and responsibilities of his position. With respect to use of the cellular phone, reasonable usage fees incurred will be borne by the Hospitals. Reasonable computer and phone upgrades may be permitted by the Hospitals every two to three years.

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

- (e) Payment in full of the Employee's annual professional and association fees or premiums in connection with the following:
  - Institute of Chartered Accountants of Ontario
  - Canadian College of Health Service Executive Membership
- (f) Mileage for all business related travel, including travel between the two Hospital sites, when using his personal vehicle, at the rate per kilometer established by Travel and Expense Reimbursement policy of the Hospitals.
- (g) Participation in the Hospitals of Ontario Pension Plan (HOOPP), in accordance with its terms and conditions, as may be amended from time to time.
- (h) Reimbursement, in accordance with Hospital policy, of reasonable business expenses incurred by the Employee upon receipt of documentation

substantiating those expenses, and approval by the Board Chairs. Expenses exceeding \$1000 must be approved in advance by the Board.

- (i) In addition to the sums in (h) above, reasonable expenses to support the Employee's ongoing development and education as approved by the Hospitals. The Employee agrees to participate in and complete such educational training as may be required to maintain his competency. An education/conference allowance of \$5000.00 per year will be available to the employee. The Board of Directors would need to approve any one time education/conference that is over \$1,500.00. This money is non-transferable and may not be moved from year to year. The time taken by the Employee for ongoing development and education will be considered part of the Employee's normal work and will not be considered as vacation time.

4. **Relocation** – The Hospitals agree to fund all reasonable costs of one personal move to one of the communities served by the hospital should the move occur up to and including the employee's second year employment anniversary.

5. **Termination** - The Employee's employment may be terminated in the following manner in the specified circumstances:

- (a) By the Hospitals at any time, without notice or pay in lieu of notice, for just cause.
- (b) By the Hospitals, in the event that the Employee is absent from the performance of his duties and unable to perform them for a continuous period of at least one (1) year, and the Hospitals and Employee have reviewed the Employee's circumstances and determined that there is no reasonable likelihood that the Employee will return to his position in the near future, or that the Employee's needs cannot be accommodated by the Hospitals such that he could return to his position, based on frustration of

contract, subject to the provision of statutory notice and severance pay under the Employment Standards Act only.

- (c) By the Employee, upon the giving of two (2) months prior written notice to the Hospitals. The Hospitals may waive the notice, in whole or in part, in which case the Employee's employment will terminate immediately as of the date the Hospitals waive the notice. The Hospitals agree to pay the Employee's salary and continue benefits for the remaining balance of the two (2) month notice period.
  
- (d) By the Hospitals at any other time, by providing the Employee the greater of:
  - (i) during the first twelve (12) months of employment, salary and benefit continuance for up to eight (8) months, which shall however cease upon earlier equivalent re-employment. In addition, the Employee shall receive vacation owing for that employment year in which termination occurs. The total of the eight (8) months' pay plus the accumulation of a maximum of six (6) weeks' salary in lieu of owed vacation will be the maximum payout upon termination in the first year of employment.
  - (ii) After twelve (12) consecutive months of employment, salary and benefit continuance for up to twelve (12) months, which shall however cease upon earlier equivalent re-employment. In addition, the Employee shall receive vacation owing for that employment year in which the termination occurs. The total of the twelve (12) months' pay plus the accumulation of a maximum of six (6) weeks' salary in lieu of owed vacation will not be exceeded.
  
- (e) The Hospitals will provide outplacement counseling up to a maximum value of \$5,000.00.

- (f) Any payments made or notice given under paragraph (d) shall be considered as inclusive of any termination and/or severance payments that may be owing to the Employee by the Hospitals pursuant to the provisions of the *Ontario Employment Standards Act* and the Regulations thereunder, as amended from time to time.
6. **Liability of Hospitals Upon Termination** - Upon the termination of this Agreement under any provision herein, the Hospitals 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 the Employee, except for any unpaid salary and benefits accrued prior to the date of termination as defined in this Agreement, and for any payments under the express terms of clause 5 above. Under no circumstances whatsoever (including, without limitation, the Hospitals' breach or default under this Agreement or the termination of the Employee's employment without cause), shall the Hospitals' liability under this Agreement exceed the amounts payable in accordance with the provisions of clause 5 above.
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 breach of any provisions of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Each and every right, remedy and power hereby granted to any party or allowed it by law shall be cumulative and not exclusive of any other.
9. **Severability** - If any of the provisions 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 of this Agreement or the application thereof.

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. **Hospitals' Property** - 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 Hospitals to the Employee, and all equipment, software, credit cards, books, records, reports, files, manuals, literature, confidential information or other materials shall remain and be considered the exclusive property of the Hospitals at all times and shall be surrendered to the Hospitals, 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.

The Employee agrees not to disclose, during or following his employment, any of the Hospitals' confidential information to anyone, unless disclosure is necessary to conduct the business of the Hospitals.

12. **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 or by legislated changes to applicable laws. This Agreement may not be amended orally in any respect. The Hospitals agree to review this agreement every two 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 other than legislated changes will be mutually agreed and in writing



13. **Successors** - The Agreement shall inure to the benefit of the Hospitals and their 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 Hospitals and the Employee to any successor of the Hospitals by acquisition, merger, reorganization, integration, amalgamation, sale or otherwise.

14. **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 as follows, or to the last known address of either party:

[ *organization* ]

[ *address* ]

Attn: Chair, Board of Directors

15. **Voluntary Act/Legal Counsel** - The Employee agrees and acknowledges that he has read and understands 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.

IN WITNESS HEREOF, the parties have executed this Agreement effective on the day of 1<sup>st</sup> day of October, 2010.

Listowel Memorial Hospital

By:

[Signature]

Wingham and District Hospital

By:

Margaret Stapleton

[Signature]

Witness

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[Signature]

Karl Ellis