

EMPLOYMENT AGREEMENT

THIS AGREEMENT made as of the 1st day of February, 2014,

BETWEEN:

HAMILTON HEALTH SCIENCES CORPORATION,
a non-share capital corporation formed under the laws of Ontario

(the "Employer")

- and -

ROBERT S. MACISAAC
an individual residing in the F.I.P.A. Sec 21

(the "Employee")

Background

The Board of Directors of Hamilton Health Sciences has passed a resolution approving the engagement of the Employee, and the Employee has accepted an offer of employment, on those terms that are set out in this Agreement.

FOR VALUE RECEIVED, the parties agree as follows:

DESCRIPTION OF SERVICES

1. Services to be Provided

- (a) The Employee shall serve as the President of the Employer and shall also perform all duties and services as may be required of an Administrator, as that term is defined in the *Public Hospitals Act* (Ontario), and such other duties within the job description of the Employer for the position of President (which may be amended by the Board of Directors from time to time) as the Board of Directors may from time to time direct.
- (b) The Employee shall be obligated to perform his duties in compliance with the *Public Hospitals Act* (Ontario), other applicable laws, and the by-laws and policies of the Employer. The Employee shall follow all lawful instructions and directions given to him by the Board of Directors.

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- (c) The Employee shall, throughout the term of this employment, devote his full time and attention to the business and affairs of the Employer and shall not, without the prior written consent of the Chair of the Board of Directors (not to be unreasonably withheld), undertake any other business or occupation or become a director, officer, employee or agent of any other company, firm or individual; provided, however, that the Employee shall be able to continue to serve on the boards listed in Schedule A for the balance of the term as indicated on that schedule. The Employee acknowledges that this position will include the carrying out of the duties in the evenings and weekends, as may be required from time to time, in addition to regular business hours.
- (d) In carrying out his duties, the Employee shall faithfully serve the Employer and use his best efforts to promote its interests.

2. **Employee's Powers**

The Employee shall have, subject to the general or specific instructions and directions of the Board of Directors and the by-laws and the limits of authority and other policies of the Employer, full power and authority to manage and direct the operational business and affairs of the Employer, including power and authority to enter into contracts, engagements or commitments relating to the Employer's operations of every nature or kind in the name of and on behalf of the Employer and to engage and employ and to dismiss all managers and other employees and agents of the Employer.

COMPENSATION AND BENEFITS

3. **Remuneration**

- (a) **Base Salary.** The Employer agrees to pay the Employee a base salary of five hundred and forty-two thousand dollars (\$542,000.00) per annum but there shall be no increase to the base salary or to any benefits set out herein until there is a change in legislation permitting an increase and an increase has been agreed by Employee and Employer following a review by the Board of Directors. The review shall include an assessment of the Employee's performance and his achievement of the overall objectives established by the Board of Directors' strategic plan for the Employer.
- (b) **Incentive Payment.** As determined by the Employer, at the discretion of the Board of Directors, the Employee will be eligible to receive an annual lump sum payment, of up to twenty percent

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(20%) of his base salary (i.e. up to \$108,400.00), as an incentive payment in consideration of the achievement of performance goals set annually by the Board of Directors. The Employee's performance goals will be divided into three categories by the Board of Directors, as follows:

- (i) Financial performance of the Corporation;
 - (ii) Accomplishment of corporate goals by senior management; and
 - (iii) Accomplishment of goals personal to the Employee.
- (c) As a one-time allowance which shall not be taken into account in making any payment to the Employee under Section 9 hereof, the Employer will pay up to \$270,000.00 to enable Employee to transfer into the HOOP pension plan without any loss of pensionable service or material loss of pension benefits he has earned to date under plan(s) that he may transfer into the HOOP plan or address any adverse tax consequences of any forced distribution of funds out of Employee's previous pension plans.

4. Ongoing Benefits

- (a) **Expenses.** It is understood and agreed that the Employee will incur expenses in connection with his duties under this Agreement. The Employer will reimburse the Employee for any reasonable and substantiated expenses provided such expenses were incurred in accordance with established Employer policy and as approved by the Board Chair.
- (b) **Benefit Plans.** The Employee shall participate in the benefit plan the Employer has in place for its full-time senior administrative personnel, including but not limited to dental, group life insurance and extended health benefits as more fully described in the Employer's Executive Benefit Plan as amended from time to time, a copy of which the Employee acknowledges having received.
- (c) **Membership in Professional Associations.** To the extent only that it is permitted by law do so, the Employer agrees to pay membership dues to professional associations and societies and to such service organizations and clubs of which the Employee wishes to be a member, subject to the approval of the Board Chair.
- (d) **Professional Development.** The Employee will be permitted to be absent from the Employer during working days to attend professional development meetings and conferences and to attend to such outside professional duties in the Employer field as have

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been mutually agreed upon between him and the Chair of the Board of Directors. Attendance at such approved meetings and accomplishment of approved professional development goals shall be fully compensated service time and shall not be considered vacation time.

- (e) **Vacation.** The Employee shall be entitled to six (6) full weeks of compensated vacation time in each year, to be taken at times mutually agreed upon between the Employee and the Chair of the Board of Directors. The Employee shall be entitled to carry forward vacation (i) in accordance with Employer policy as established or amended from time to time or (ii) for up to two (2) weeks of unused vacation per year to a maximum of eight (8) weeks vacation in any one (1) calendar year, whichever option is more favourable to the Employee.
- (f) **Pension.** The Employer will make the employer contribution to the Employee's Hospital of Ontario Pension Plan ("HOOPP").

5. **Officer Insurance & Indemnification**

- (a) The Employer shall insure the Employee under its general liability insurance policy for directors and officers for all acts done by him in good faith as Employee throughout the term of this Agreement.
- (b) The Employee shall be indemnified by the Employer as provided in the Employer's By-Laws, as amended by the Board and the members of the Employer corporation from time to time.

TERM AND TERMINATION

6. **Term**

The Employee's employment with the Employer shall continue until February 1, 2019 (the "Term"), unless terminated earlier in accordance with the provisions of this Agreement.

7. **Termination by Employee**

This Agreement may be terminated by the Employee at any time, for any reason, on the giving of ninety (90) days written notice to the Employer.

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8. **Termination by Employer for Just Cause**

This Agreement may be terminated by the Employer, in its absolute discretion, without any notice or pay in lieu of notice, for Just Cause (as that term is defined in Section 10).

9. **Termination by Employer Without Just Cause**

- (a) **Notice Period.** This Agreement may be terminated by the Employer, in its absolute discretion, for any reason by giving the Employee prior notice in writing equal to, in the period prior to February 1st, 2017, twelve (12) months' notice, with one additional month's notice for each year of service thereafter (the "Notice Period") or on paying to the Employee the equivalent termination pay in lieu of notice in equal monthly amounts over the Notice Period; provided, however, that non-renewal shall not constitute termination without just cause; and further provided, however, that in no event shall the amounts payable to the Employee upon termination of this Agreement be less than the amount to which the Employee is entitled under the *Employment Standards Act (Ontario)*.
- (b) **Payment during Notice Period.** The payments contemplated in this Section 9, include the Employee's base salary, the cost of benefits hereunder and the average of any incentive payments made to the Employee under this Agreement. Payment of any amount during the Notice Period in excess of the sum of all amounts due under the *Employment Standards Act*, shall be conditional upon the Employee making reasonable efforts to secure alternate employment and those payments shall cease to be payable in the event Employee either ceases to make reasonable efforts to secure alternate employment or does secure alternate employment.
- (c) **Acknowledgement by Employee.** The payments under this Section 9 include all entitlement to either notice or pay in lieu of notice and severance pay under the *Employment Standards Act (Ontario)*. In the event the minimum statutory requirements as at the date of termination provide for any right or benefit that is greater than that provided for in this Agreement, such statutory requirements will replace the payments contemplated under this Agreement. The Employee agrees to accept the notice or pay in lieu of notice as set out in this Section 9 in full and final settlement of all amounts owing to him by the Employer on termination, including any payment in lieu of notice of termination, entitlement of the Employee under any applicable statute and any rights that the

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Employee may have at common law, and the Employee waives any claim to any other payment or benefits from the Employer.

- (d) **Closure of Site Not Constructive Dismissal.** The Employee agrees that his employment will not be constructively terminated should the resources within his scope of authority be diminished by the full or partial closure of one or more of the Employer's sites, provided that:
- (i) the fundamental character of the Employer as an acute care teaching hospital does not change;
 - (ii) he remains the Employee or equivalent; and
 - (iii) there is no resulting decrease to the Employee's compensation or benefits.
- (e) **Regional Health Care.** The Employee agrees that should there be an actual or proposed restructuring of the public hospital sector in the region within which the Employer operates, such that when and if the restructuring takes effect, the operations of the Employer will become governed by, or controlled or owned by, another entity, the Employee will, if requested by the Employer, or on his own initiative, put himself forward as a candidate for appointment as the senior staff official of the entity and will not treat the said restructuring as constructive dismissal or dismissal without just cause provided he is appointed to a position with the new entity which is the Employee position or equivalent and provided there is no resulting decrease to his compensation and benefits.
- (f) **Residence.** It shall be a condition of the Employee's continued employment, that the Employee reside within the boundaries of the Local Health Integration Network within which the Employer operates and Employee covenants to do so and acknowledges that a failure to do so would be material breach of this Agreement within the meaning of Section 10 (a) hereof.
- (g) **Renewal Protocol.** The parties agree on the following protocol for their consideration of the renewal of this Agreement. Within 90 days of the beginning of year five of the contract, the Employer will advise the Employee in writing whether or not it desires to enter into negotiations to renew the contract or not. The Employee will then have 14 days to respond in writing indicating his desire to enter into such negotiations. Should the Employee indicate that he does not wish to renew the contract then the Employer shall have no financial obligation beyond that linked to the remaining term in the contract. Should both parties desire to renew the contract, they

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shall then enter discussions to renegotiate the renewal terms and conditions and they shall have up to six months prior to the expiration of the contract to complete agreement on the renewal terms. Failing agreement within the required timeframe then the Employer shall be entitled to retain the services of the Employee for up to three more months. The Employer may also retain the Employee for a shorter period, provided that it so advises the Employee in writing of the shorter period within seven days of the break off in negotiations. Where the parties have broken off negotiations, the Employee shall be entitled to full payment of wages and benefits up to the end of the contract, but the Employer shall not be entitled to any services from the Employee beyond the established retention date. The parties further agree that there shall be no further payment obligation on the part of the Employer should the contract term expire due to inability to reach agreement for renewal. The parties agree that should this Agreement be renewed it would be reasonable for the length of any Notice Period in the event of termination without just cause during the term of any renewal be 12 months plus one additional month for each year of service to the Employer to a maximum of 18 months.

10. **Just Cause – Definition**

“Just Cause” for the purpose of Section 8 above includes but is not limited to the following:

- (a) any material breach of the obligations or covenants contained in this Agreement;
- (b) willful failure to carry out the Employee's duties as set out in this Agreement or as prescribed by the Board;
- (c) willful failure to comply with the applicable legislation governing the Employer, including the *Public Hospitals Act*, or with the Employer's by-laws, policies, rules or regulations;
- (d) any conduct of the Employee that in the opinion of a majority of the Board, tends to bring the Employer into disrepute;
- (e) the filing for bankruptcy by the Employee;
- (f) death of the Employee;
- (g) conviction of the Employee of a criminal offence punishable by indictment; or
- (h) the Employee becoming disabled such that the Employee cannot perform to a reasonable degree the Services as described in

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Section 1 and the disability cannot be accommodated to the extent required by the *Ontario Human Rights Code*.

11. **Payments on Termination**

- (a) The parties understand and agree that the giving of notice or the payment of pay in lieu of notice by the Employer to the Employee on termination of the Employee's employment shall not prevent the Employer from alleging that Just Cause exists for the termination.
- (b) Notwithstanding the termination of this Agreement for any reason whatsoever, the Employer shall pay to the Employee any arrears of monies owing to the Employee up to the date of termination, in addition to those monies which may be owing pursuant to Section 9.
- (c) Upon termination of this Agreement for any reason, the Employee acknowledges that all items of any kind created or used by him pursuant to his employment or furnished by the Employer to him including, but not limited to, all equipment, books, records, credit cards, automobiles, reports, files, diskettes, manuals, literature, confidential information, or other materials shall remain and be considered the exclusive property of the Employer at all times, and shall be surrendered to the Board of Directors of the Employer, in good condition, promptly without being requested to do so.


GENERAL

12. **Severability**

If any covenant or provision of this Agreement is determined to be void or unenforceable in whole or in part by any court, such determination shall not affect or impair the validity of any other covenant or provision of this Agreement, which shall remain in full force and effect as if the void or unenforceable covenant or provision had not been made part of this Agreement, and the void or unenforceable provision shall be deemed to be amended to conform to applicable law so as to be valid and enforceable.

13. **Waiver**

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

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14. **Governing Law**

This Agreement shall be governed and construed in accordance with the laws of the Province of Ontario and the Federal laws of Canada applicable therein.

15. **Entire Agreement**

This Agreement contains the entire agreement of employment between the parties hereto and supersedes all previous negotiations, representations, understandings and agreements, whether oral or written, with respect to the subject matter herein.

16. **Notice**

Any notice to be given under this Agreement shall be in writing and shall be personally delivered, sent by registered mail or sent by fax to the following address or such other address as either party may from time to time designate to the other by notice given in accordance with this Section:

Notices to the Employer:

Hamilton Health Sciences Corporation
McMaster Site
Box 2000
Hamilton, Ontario
L8N 3Z5

Attention: Chair, Board of Directors
Fax: (905) 521-5067

Notices to the Employee:

F.I.P.A. Sec 21


Any notice personally delivered shall be deemed to be given on the date of delivery. A notice sent by mail shall be deemed to have been validly given on the fifth business day following the date of mailing, and a notice given by fax shall be deemed to have been validly given on the business day next following the day on which it was sent.

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17. **Assignment**

This Agreement shall not be assigned by either party without the written consent of the other, provided that the Employer may assign this Agreement to any successor entity of the Employer, without the consent of the Employee.

18. **Benefit of Agreement**

This Agreement shall enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors and permitted assigns.

19. **Time**

Time shall be of the essence in this Agreement.

20. **Headings**

The headings in this Agreement are inserted for convenience of reference only and shall not affect its interpretation.

21. **Independent Legal Advice**

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

IN WITNESS WHEREOF this Agreement has been executed by the parties.

SIGNED, SEALED AND DELIVERED
In the presence of

F.I.P.P.A. Sec 21
[Redacted]

Witness 0

HAMILTON HEALTH SCIENCES CORPORATION

Signature [Redacted]
Per: [Redacted]

Authorized Signing Officer

Signature Mark Rizzo
Per: [Redacted]

Authorized Signing Officer

Signature Robert MacIsaac
[Redacted]

ROBERT S. MACISAAC

SCHEDULE "A"

Member Board of Directors, 407 ETR

Member Board of Directors, United Way of Burlington Greater Hamilton

Member Board of Directors, Civic Action

Member Board of Directors, Burlington Economic Development Corporation

Member Board of Directors, Greenbelt Foundation

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