

THIS AGREEMENT made as of the 12th Day of December 2016.

BETWEEN:

THE CHATHAM-KENT HEALTH ALLIANCE

being a partnership comprised of the
Public General Hospital Society of Chatham (PGH)
St. Joseph's Health Services Association of Chatham, Inc. (SJH) and
Sydenham District Hospital (SDH)

(Alliance)

-and-

Dr. Pervez Faruqi
(Chief of Staff)

Background

Whereas:

SJH is a denominational public hospital, being a Roman Catholic health facility, owned by SJH and sponsored by St. Joseph's Health Care Society.

PGH is a public hospital, desiring to provide a full range of health services required by individuals in the Municipality of Chatham-Kent, Ontario.

SDH is a public hospital desiring to provide a specified range of health services required by the Wallaceburg community and its environs; and

Whereas:

The Hospitals entered into an Alliance Agreement dated April 30, 1998 (as amended from time to time) under which an alliance was formed known as "Chatham-Kent Health Alliance" (the "**Alliance**"); and

Whereas:

The Alliance wishes to appoint a Chief of Staff; and

Whereas:

Dr. Pervez Faruqi has agreed to serve in this capacity

NOW THEREFORE for good and valuable consideration which the parties acknowledge receiving, the Alliance and the Chief of Staff hereby agree as follows:

1.01 Appointment

- a) Pursuant to the selection and appointment processes, the Hospital boards (for purposes of this agreement, known as the **Tri-Board**) have appointed Dr. Pervez Faruqi to undertake the duties and exercise the powers of the Chief of Staff of their respective Hospitals, and the Chief of Staff accepts this appointment on the terms and conditions set forth in this agreement as amended, supplemented or restated from time to time (the "Agreement").
- b) Any re-appointment of the Chief of Staff is subject to confirmation by the Tri-Board, as provided in the Hospitals' by-laws, and is conditional on the maintenance by the Chief of Staff of his staff privileges in good standing at the Alliance throughout the term of this Agreement.

1.02 Duties

- a) The Chief of Staff shall perform the duties as summarized in the "Chief of Staff Position Description" developed by the Alliance and as may be amended from time to time by the Tri-Board in consultation with the Chief of Staff and the President and CEO ("CEO"), the duties of Chief of Staff set out in the Hospitals' by-laws and such other duties as requested from time to time by the Tri-Board. The Chief of Staff shall serve well and faithfully the Alliance and use all efforts to promote the interests of the Alliance.
- b) The Chief of Staff is accountable to the Tri-Board and will comply with all lawful instructions and directions given to him by the Tri-Board and shall carry out his duties in accordance with the Alliance Agreement, Key Performance Indicators, the *Public Hospitals Act* (Ontario), and each of the Hospitals' by-laws, rules and policies. The Chief of Staff shall serve well and faithfully the Alliance and use all efforts to promote the interests of the Alliance.
- c) In addition to being an ex-officio member of each Hospital Board, the Chief of Staff shall be a member of the Alliance's Senior Team and shall act as Chair of each of the Hospital's Medical Advisory Committee(s). The Chief of Staff will work in co-operation with the CEO of the Alliance to ensure quality and safe patient care, a safe workplace environment and appropriate use of the Alliance resources.
- d) The Chief of Staff shall not make any statements to the news media, government or public without the Tri-Board Chairs' or CEO's authorization.
- e) The Chief of Staff shall disclose to the Tri-Board Chairs any complaint to the College of Physicians and Surgeons of Ontario (CPSO) about him.

1.03 Commitment Expectations

- a) The Chief of Staff, throughout the term of this appointment, shall devote the appropriate amount of time and attention per week to the business and affairs of the Alliance which the parties expect will be approximately 1.5 days per week with the balance of a full time FTE being dedicated to maintaining an active clinical practice at the Alliance. The Chief of Staff shall not, without the prior consent in writing of the Board Chairs (which shall not be unreasonably delayed or withheld), undertake any additional external administrative activities that could interfere with or adversely affect the Chief of Staff's ability to perform his obligations to the Alliance under this

Agreement. This clause is not intended to prohibit or prevent the Chief of Staff from undertaking such activities but rather to emphasize the importance of the role of the Chief of Staff to the Alliance.

- b) Without limiting the commitment set out in paragraph 1.03(a) above, the Chief of Staff shall be expected to attend all:
 - a. Board and Board Committee meetings that he is a member of; and
 - b. Medical Advisory Committee and Professional Staff meetings that he is a member of; and
 - c. Senior Management Team Meetings
 - d. such other administration committee meetings that Dr. Faruqi and the CEO agree upon.
- c) The Chief of Staff shall be required to, with the approval of the CEO, appoint an acting Chief of Staff (from a member of the Medical Advisory Committee) during any absence of three weeks or more.

1.04 Confidentiality

- a) The Chief of Staff agrees to hold all information confidential with respect to the Alliance, its practice, patients and affairs which the Chief of Staff may have access to during the term of this Agreement. The Chief of Staff further agrees that he will not, either during the term of this Agreement or at any time thereafter, use for his own purpose any such secrets or confidential information or disclose, divulge or otherwise communicate, whether orally, in writing or otherwise, to any person or persons any such trade secrets or confidential information without prior written permission from the Alliance.
- b) Notwithstanding the foregoing, the Chief of Staff may disclose any information that:
 - i. is documented as already being in the Chief of Staff's possession without burden of confidentiality;
 - ii. is or becomes publicly available or public knowledge;
 - iii. is disclosed pursuant to the lawful requirement of legislation, a court or government body of competent jurisdiction, provided that before disclosure is made, the Chief of Staff gives notice of the requirement to the CEO of the Alliance, and to the extent possible in the circumstances, the Alliance is afforded an opportunity to dispute the disclosure;
 - iv. is furnished to the Chief of Staff by a third party without restriction on disclosure; or
 - v. is required to disclose to perform the Chief of Staff duties under this Agreement.

1.05 Performance Appraisal Process

- a) The Tri-Board of the Alliance and the Chief of Staff, in consultation with the CEO of the Alliance, shall review the work plan, goals and objectives of the departing Chief of Staff and modify, expand or prioritize as mutually agreed for the term of this agreement.
- b) At least every two (2) months, the Chief of Staff will provide an update to the Board Chairs on the status of the work plan, goals and objectives.
- c) If an extension of this contract is required into a new year, the Alliance will conduct a performance appraisal of the Chief of Staff, in accordance with the Alliance's performance policy. This review will evaluate the performance of the Chief of Staff primarily based on his achievement of the work plan, goals and objectives, and will take into account other major environmental factors beyond the control of the Chief of Staff, e.g. government policy, restructuring, budget alignments. The Tri-Board shall consult with and involve other members of the Alliance as appropriate to conduct a full and accurate evaluation of the Chief of Staff.

ARTICLE 2. REMUNERATION

2.01 Compensation

Stipend for Services

- a) The parties agree that the Chief of Staff's compensation may be subject to the prescribed compensation framework required to be implemented by the Alliance pursuant to the *Broader Public Sector Broader Public Sector Executive Compensation Act, 2014* (Ontario).
- b) For the term of this agreement, the stipend of the Chief of Staff for his services shall be remunerated at a rate of \$75,000 per year (at a rate of \$1442 per week), payable as a bi-weekly stipend. The Chief of Staff acknowledges and agrees that the stipend is being paid by virtue of their office as Chief of Staff, but that no portion of the stipend is attributable to his duties as a non-voting member of the Hospital Boards.
- c)
 - i. It is acknowledged that through this relationship Dr. Faruqi remains an Independent Service Provider as a Professional Medical Corporation and nothing in this agreement is intended to create and shall not create any employment relationship between Dr. Faruqi and CKHA. CKHA is not responsible for, and will not make C.P.P., E.I., Income Tax or any other deductions from payments to the Professional Medical Corporation. It is the responsibility of the Professional Medical Corporation to report the entire amount of any monies received from CKHA as required by Canada Customs and Revenue Agency, the Ontario Ministry of Finance or any other governmental agency.
 - ii. The Chief of Staff shall not be entitled to any benefits extended, including without limitation, health, dental, group life insurance or pension, made available to the Alliance's full or part time employees.

2.02 Reimbursement for Expenses

It is understood and agreed that the COS will incur expenses in connection with his duties. Reasonable expenses for conferences, fact-find endeavors, travel, accommodations, etc. will be reimbursed pursuant to the corporate travel policy and can be coordinated through the office of the CEO.

ARTICLE 3. TERM AND TERMINATION

3.01 Term

- a) The term of this agreement is from January 1, 2017 to December 31, 2019 unless extended or terminated earlier in accordance with the provisions of this Agreement.
- b) This Agreement may be renewed and/or extended by mutual agreement.

3.02 Termination Upon Mutual Agreement

This Agreement may be terminated at any time by mutual agreement of the parties in writing.

3.03 Termination by Chief of Staff or Alliance

This Agreement may be terminated by either party, at any time for any reason, on the giving of three (3) months' written notice to the other. The termination by the Alliance will require unanimous approval of each of the Hospital's Boards. The Alliance may in its discretion collectively waive notice, in whole or in part.

3.04 Termination by Alliance for Event of Default

- a) This Agreement may be terminated by the Alliance, in its absolute discretion, immediately without notice and without pay in lieu of notice, upon the occurrence of an "Event of Default". For the purposes of this Agreement, "Event of Default" shall include, without limitation:
 - i. continuing failure of the Chief of Staff to observe and perform material obligations or achieve performance goals under this Agreement, provided the Alliance has given the Chief of Staff written notice of such continuing failure and the Chief of Staff has not rectified, or taken significant steps to commence rectifying, the situation in a manner satisfactory to the Alliance within thirty (30) days of receiving such written notice;
 - ii. an act of professional misconduct, which for the purposes of this Agreement includes a material breach of the Alliance's By-Laws, Professional Staff Rules and Regulations and policies;
 - iii. suspension or revocation of the Chief of Staff's privileges at the Alliance; or
 - iv. failure of the Chief of Staff to be appointed/reappointed to the medical staff of the Alliance.

- v. any other conduct that is perceived by the Tri-Board to be prejudicial to the reputation of the Alliance.

3.05 Consequences of Termination

- a) Upon termination of this Agreement for any reason, the Chief of Staff shall promptly return to the Alliance all items of any kind created or used by him pursuant to his role as Chief of Staff or furnished to him by the Alliance, including, but not limited to, all equipment, books, records, credit cards, reports, files, diskettes, manuals, literature, and confidential information.
- b) In the event of termination of this Agreement, remuneration owing to the Chief of Staff under this Agreement shall be adjusted to the effective date of that termination.
- c) If this Agreement is terminated for any reason (excluding termination pursuant to Section 3.04 a) iii. or 3.04 a) iv. above), all privileges granted to the Chief of Staff by the Alliance shall be continued, subject to the process of renewal, modification, withdrawal or termination of privileges as provided under the *Public Hospitals Act* (Ontario) and the Hospitals' by-laws.

ARTICLE 4. INDEMNITIES AND INSURANCE

4.01 Mutual Indemnity

- (a) The parties covenant and agree to indemnify and save each other harmless from any liability, loss, damage or expense, including assessable legal fees, arising out of the performance of their respective obligations under this Agreement, including any negligent act or omission on their behalf or by anyone for whom they are in law responsible. The parties hereto agree that they shall co-operate with each other in the defence of any action from which such liability results, including providing each other with prompt notice of any such action and the provision of all material documentation to the extent permitted by law. The parties further agree that they have a right to retain their own counsel to conduct a full defence of any such action.
- (b) The Chief of Staff further agrees to indemnify and hold harmless the Alliance, its officers, directors, employees and agents (the "Indemnified Party") with respect to any liability incurred by the Indemnified Party resulting from any amounts due for assessments, penalties, fines and/or interest made by Canada Revenue Agency, the Ontario Ministry of Finance or any other governmental agency against the Alliance for any amounts of money the Alliance should have withheld for source deductions (e.g. income tax, Canadian pension plan, employer's health tax, employment insurance, and workplace safety and insurance) for goods and services tax or harmonized sales tax.
- (c) For greater certainty, this section 4.01 excludes the indemnification of the Chief of Staff by the Alliance for any liability, loss, damage or expense, including assessable legal fees, arising out of the Chief of Staff' duties as a practicing physician.

4.02 Insurance

The Alliance agrees to provide errors and omissions and directors and officers' liability insurance to the Chief of Staff at the Alliance's expense; the details of such insurance are outlined in the Composite Healthcare Insurance Policy of the Healthcare Insurance Reciprocal of Canada (HIROC).

ARTICLE 5. GENERAL

5.01 Notices

Any notices which may be given pursuant to or concerning this Agreement shall be in writing and may be given by personal service or by prepaid registered mail as follows:

a) *if to the COS to:*

Dr. Pervez Faruqi
202 King St. W
Chatham, ON N7M 1E5

b) *if to the Alliance to:*

Chatham-Kent Health Alliance
P.O. Box 2030
Chatham, Ontario N7M 5L9
Attention: Chairs of the Boards & Chief Executive Officer

or at such other address as the party to whom such notice is given may have designated by notice so given to the other party. Any such notice or communication given by personal service in accordance with the provision of this paragraph shall be deemed to have been received by or given to the addresses on the date of delivery. Any such notice or communication mailed as aforesaid shall be deemed to have been received by and given to the addressee on the third business day following the date of mailing, provided that for such purposes, no day during which there shall be a strike or other occurrence shall interfere with normal mail service to either of the parties hereto shall be considered to be a business day.

5.02 Severability

Each of the provisions contained in this Agreement is distinct and severable. Any declaration by a court of competent jurisdiction of the invalidity or unenforceability of any provision or part of a provision will not affect the validity or enforceability of any other provision of this Agreement.

5.03 Waiver

The parties reserve the right from time to time and on more than one occasion to waive any of the obligations imposed hereunder. No waiver by the parties of any breach of any of the covenants or conditions of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any obligation.

5.04 Entire Agreement

This Agreement (which includes any schedules or appendices to this Agreement) constitutes the entire agreement between the parties with reference to the appointment of the Chief of Staff, and any and all previous agreements, representations, warranties or covenants, written or oral, express or implied, among the parties or on their behalf, relating to the appointment of the Chief of staff, are terminated and superseded.

5.05 Modification of Agreement

Any modification to this Agreement must be in writing and signed by the parties or it shall have no effect and shall be void.

5.06 Assignment

- a) This Agreement is personal to the Chief of Staff and may not be assigned by him.
- b) Upon notice to the Chief of Staff, this Agreement is assignable by the Alliance.

5.07 Headings

The headings used in this Agreement are for convenience only and are not to be construed in any way as additions to or limitations of the covenants and agreements contained in it.

5.08 Governing Law

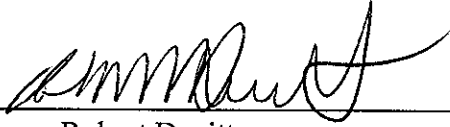
This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario.

5.09 Independent Legal Advice

The Chief of Staff acknowledges that:

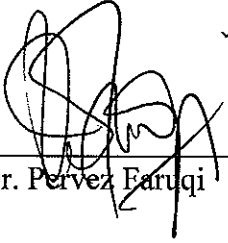
- a) he has read and understood this Agreement; and
- b) he has been given the opportunity to obtain the independent legal advice in connection with this Agreement and the provisions hereof, and has freely chosen not to obtain such advice, or in the alternative he has obtained independent legal advice in connection with this Agreement and the provisions hereof.

IN WITNESS WHEREOF this Agreement has been executed by the parties to it, on the day, month and year first written above.



Name: Robert Devitt

Title: Supervisor for Public General Hospital Society of Chatham
St. Joseph's Health Services Association of Chatham, Inc.
Sydenham District Hospital



Dr. Pervez Faruqi