

EMPLOYMENT AGREEMENT
(this "Agreement")

THIS AGREEMENT is dated October 11, 2022 (the "Effective Date")

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF ALBERTA,
as represented by the **PRESIDENT OF EXECUTIVE COUNCIL**
(the "Employer")

- and -

MARSHALL SMITH
(the "Employee")

This Agreement is entered into pursuant to Order in Council, 341/2020, Premier's and Ministers' Staff Employment Order ("PMSEO").

The Employer and Employee agree as follows:

1. Position and Term:

- 1.1 The Employer will employ the Employee in the position of Chief of Staff (the "Position"). The Employee will perform the duties of the position on a full-time basis.
- 1.2 The Employee will report to the President of Executive Council ("Premier") for Ministry assignments. The Premier may change the assignment during the Term of the Agreement, in the sole discretion of the Premier.
- 1.3 The Employee's employment will start on October 11, 2022 and will continue until the end of the day on December 31, 2023 (the "Term"), unless terminated earlier in accordance with this Agreement. This Agreement is for a fixed term and it will not be combined with any prior employment agreements between the Employer and the Employee to create a contract of indefinite duration.
- 1.4 As a condition precedent to this Agreement, the Employee agrees to undertake a security clearance in accordance with the requirements of the Employer.
- 1.5 The Employee consents to the disclosure and release of personal information by the Employer for the purpose of conducting a security clearance to determine the Employee's suitability for employment. If additional consent is required, the Employee will provide the necessary consent to release personal information to the Employer, when requested, to enable disclosure to third parties the Employer deems necessary to assist in obtaining the security clearance.
- 1.6 If the Employer, in its sole discretion, finds the security screening to be unsatisfactory, this Agreement is void.

2. Conduct:

- 2.1 The Employee will perform the duties of the Position and all additional duties as directed by the Employer, (collectively the "Duties").
- 2.2 The Employee agrees to devote the Employee's full attention to the performance of the Duties and to perform the Duties faithfully, diligently and to the best of the Employee's abilities. The Employee will not be involved in any appointment, business or undertaking or employment other than employment under this Agreement ("**Concurrent Employment**") except with the prior written approval of the Employer. The Employer, in its sole discretion, reserves the right to revoke approval for Concurrent Employment.

- 2.3 The Employee agrees to review and comply with the *Code of Conduct for Employees Serving in the Offices of the Premier and Cabinet Ministers* contained in the PMSEO, all applicable supplemental codes of conduct and all other acts, regulations, directives, policies and rules of the Employer respecting the performance of the Duties and the conduct of employees generally.
- 2.4 The Employee acknowledges that during the Term, the Employee will be subject to provisions of the *Conflicts of Interest Act* as a member of the Premier's and Ministers' staff. The Employee will comply with all applicable restrictions and obligations outlined in Part 4.2 of the *Conflicts of Interest Act* and any related regulations, directives, and guidelines, including but not limited to restrictions on post-employment, Concurrent Employment, furthering private interests, using influence or insider information, and holding public securities, as well as obligations concerning financial disclosure and disclosure of real or apparent conflicts of interest.
- 2.5 The Employee acknowledges and agrees that the Employer may disclose this Agreement, in its entirety, to the Ethics Commissioner for the purposes of assisting the Ethics Commissioner in carrying out the Ethics Commissioner's duties and functions under the *Conflicts of Interest Act*.

3. Base Salary:

- 3.1 The Employee will be paid a biweekly base salary of **\$8,429.12** (the "**Base Salary**") less employee benefit premiums and required deductions and withholdings. The Base Salary is subject to review and adjustment during the Term by the Premier in accordance with Schedule 1 of the PMSEO.

4. No Other Rights or Benefits:

- 4.1 The Employee shall not be entitled to any of the rights or benefits afforded to employees of the public service of Alberta except as provided for in this Agreement.

5. Benefits:

- 5.1 The Employee is eligible for the following benefits described in the *Public Service Employment Regulation* (the "**Regulation**") in accordance with the Regulation:
- (a) Vacation Leave;
 - (b) Vacation Supplement;
 - (c) Paid Holidays;
 - (d) Special Leave;
 - (e) Parental Leave;
 - (f) Casual Illness Leave;
 - (g) General Illness Leave;
 - (h) Approved Leaves of Absence; and
 - (i) Christmas Closure.
- 5.2 A medical certificate, in a form satisfactory to the Employer, must be provided to the Employer for any illness leave in excess of 5 consecutive days and failure to provide a satisfactory medical certificate may result in any subsequent consecutive days being recorded as "unpaid" until the appropriate medical certificate is received.
- 5.3 Any accrued vacation entitlement not taken by the Employee at termination, notice of termination or expiry of this Agreement may be paid to the Employee, or alternatively the vacation time may be taken by the Employee prior to termination or expiry by the agreement of the parties.
- 5.4 The Employee may be eligible to participate in the Employer's 1st Choice benefits program in accordance with the plan, policies and governing documents of the benefits

plan. The eligibility to claim benefits in accordance with plan policies and governing documents shall be determined by the administrator of the plan. The Employer will not be liable in respect of eligibility or coverage decisions. The Employer will have the right to make changes to the 1st Choice benefits plan, policies and governing documents affecting coverage or to obtain different coverage without providing the Employee with prior reasonable notice.

- 5.5 The Employee may participate in the Public Service Long Term Disability Income Continuance Plan (LTDI). All issues relating to eligibility to participate in this plan and coverage issues will be determined by the adjudicator of this plan. The Employer will not have any liability in respect of eligibility or coverage decisions. The Employer will have the right to make changes to this plan or obtain different coverage without providing the Employee with prior reasonable notice. For additional certainty, the Employee is in a temporary position for the purposes of determining when benefits will terminate under the *Public Service Long Term Disability Income Continuance Plan Regulation*.

6. **Retirement Benefits: OR No Retirement Benefits:**

- 6.1 ~~The Employee may participate or continue to participate in the Management Employees Pension Plan ("MEPP") effective the start date of the Term of this Agreement.~~

- 6.2 ~~Should the Employee cease to be eligible to contribute to MEPP, no further compensation will be provided in lieu of this benefit.~~

OR

- 6.1 In lieu of retirement benefits, the Employee will receive a payment established by the Public Service Commission as being equivalent to the Employer contribution to the Management Employees Pension Plan on behalf of the Employee. Currently this payment is equivalent to 13.20% of the Base Salary.

- 6.2 Payment will be made, less required deductions and withholdings, to the Employee at the end of each biweekly pay period during the Term or a prorated portion thereof should the date of commencement or termination require.

- 6.3 By choosing pay in lieu of pension the Employee agrees that service under this Agreement is not eligible for pensionable service under any Government of Alberta pension plan later participated in by the Employee. This option is irrevocable.

7. **Business Expenses:**

- 7.1 The Employee may be directed by the Employer to travel. Reasonable business expenses incurred while performing the duties of the Position may be reimbursed to the Employee in accordance with the *Public Service Relocation and Employment Expenses Regulation* and the Alberta Treasury Board and Finance *Travel, Meal and Hospitality Expenses Directive* and is subject to the Alberta Treasury Board and Finance *Public Disclosure of Travel Expenses Directive*.

8. **Discipline and Termination for Just Cause:**

- 8.1 The Employer may terminate this Agreement at any time for just cause in accordance with the common law and this Agreement. Just cause includes, but is not limited to: theft, fraud, dishonesty, failure to disclose requested information, breach of fiduciary duties or conduct contrary to or in breach of any obligation under clause 2 conduct, clause 11 failure to disclose a charge, clause 13, breach of obligations not to release confidential information and trade secrets. In the event of termination for just cause, no termination notice or pay in lieu of notice will be provided.

9. **Termination by Employer:**

- 9.1 The Employer may terminate this Agreement at any time by giving written notice to the Employee. This notice is intended to replace common law reasonable notice with

certainty. The required termination notice will be the greater of the Employee's entitlement pursuant to the *Employment Standards Code* or:

9.1.1 twelve (12) weeks if the employee has less than one (1) year of continuous employment; or

9.1.2 twelve (12) weeks after the first year of continuous employment, plus an additional four (4) weeks for each additional year of continuous employment with the Employer to a maximum of twenty-six (26) weeks (the "Notice Period").

9.2 In lieu of termination notice, the Employer may, in its sole discretion, pay the Employee an amount equal to the Base Salary for the Notice Period, or a combination of termination notice and pay in lieu of notice (the "Severance Payment").

9.3 In exchange for the Severance Payment as described in clauses 9.2, the Employee agrees to execute a restrictive agreement and release that includes at least the following terms:

[x] If, during the Notice Period, the Employee is employed or retained directly or indirectly through another legal entity on a fee for service basis by a "department" (as defined in the *Public Service Act*), a "Provincial agency" (as defined in the *Reform of Agencies, Boards and Commissions Compensation Act*) or an entity where such employment or contractual arrangement is in violation of any section under Part 4.2 of the *Conflicts of Interest Act*, then the Employee will repay the Employer the gross amount paid by the Crown, Provincial agency, or other entity before statutory deductions to the Employee or the corporation, as the case may be, during the Notice Period to the maximum amount of the Severance Payment. The amount payable pursuant to this clause shall not exceed the gross Severance Payment, prior to statutory withholdings. These amounts shall be paid by the Employee to the Employer forthwith following completion of the notice period, in addition to any fine imposed or restitution ordered under Part 4.2 of the *Conflicts of Interest Act*. The parties acknowledge and agree that mitigation and the obligation to repay earnings shall not apply to those amounts contemplated in sections 56 and 57 of the *Employment Standards Code*.

[xx] The Employee acknowledges and agrees that clauses 9.1, 9.2 and 9.3 of the Agreement are reasonable and accepts the termination notice, payment in lieu of notice or combination thereof in full satisfaction of any claims or actions, including for common law entitlement. The Employee releases and discharges the Employer, the Government of Alberta and its agents and employees from any and all claims, complaints or causes of action which the Employee had, now has or may have in the future:

- (a) arising out of or related to the Employee's employment or the termination of the Employee's employment with the Employer;
- (b) for loss of disability, medical, illness or other health benefits; and
- (c) arising under the *Public Service Act*, *Employment Standards Code*, *Alberta Human Rights Act*, *Workers Compensation Act*, *Occupational Health and Safety Act*, *Freedom of Information and Protection of Privacy Act*, *Public Service Long Term Disability Income Continuance Plan Regulation*, and any amendments or regulations passed under those enactments.

10. **Termination by Employee:**

10.1 The Employee may terminate this Agreement by providing at least four (4) weeks' written notice to the Employer. The Employer reserves the right to waive all or part of the notice period, in which case the Employee will be paid the Base Salary during the waived period.

- 10.2 This Agreement will automatically end on the death of the Employee and no notice or pay in lieu of notice will apply.
11. **Notice of Charge:**
- 11.1 The Employee will immediately notify the Employer if the Employee is charged with any offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or an offence under provincial or municipal legislation.
12. **Materials Ownership:**
- 12.1 All documents, electronic records, software, manuals, and other materials produced or used by the Employee in connection with the performance of this Agreement, other than publicly available materials (the "Materials"), are the property of the Employer. Upon termination or expiry of this Agreement or upon request of the Employer, the Employee will immediately return all Materials to the Employer. It is expressly prohibited for the Employee to retain copies of Materials in any form without the written consent of the Employer. Any benefits resulting from the development of Materials shall accrue to the benefit of the Employer and, if provided to the Employee, shall be held in trust by the Employee for the Employer.
- 12.2 The Employee will not make for the Employee's own use or for the use of anyone else, copies or reproductions of the Materials. The Employee, or the Employee's estate representative, will return all materials upon termination of the Agreement, however caused.
13. **Confidential Information and Trade Secrets:**
- 13.1 Any confidential information or trade secrets acquired or created by the Employee in the performance of this Agreement, or any prior employment agreement with the Employer (the "Confidential Information") will not be used or disclosed to anyone unless release is specifically approved by the Employer. Confidential Information includes any information whether in writing or not, which is not generally known to the public, and which could, if used, communicated or divulged, cause damage or embarrassment, loss of reputation, or other harm to the Employer. Confidential information shall not be used or disclosed unless specifically approved by the Employer. Any benefits resulting from the development of Confidential Information shall accrue to the benefit of the Employer and, if provided to the Employee, shall be held in trust by the Employee for the Employer.
- 13.2 The duty not to release Confidential Information is in addition to the common law duties of confidentiality and fidelity.
14. **Ownership of Intellectual Property:**
- 14.1 All rights, title and interest in and to all intellectual property that may be conceived, created or developed during the course of employment of the Employee with the Employer (the "Intellectual Property") will belong solely to the Employer.
- 14.2 The Employee waives all moral rights in any copyright works authorized or coauthored by the Employee in the performance of the Employee's duties and obligations under this Agreement. The Employee will execute a written waiver of moral right in any copyright works authored or coauthored by the Employee immediately upon the request of the Employer.
- 14.3 The Employee will execute such assignment and other documents as are required by the Employer to transfer all right, title and interest in and to all Intellectual Property to the Employer. In the event that the Employee fails to execute such assignment and other documents within ten (10) business days after a written request from the Employer, the Employee hereby appoints the Employer as the Employee's attorney to execute such assignment and other documents on behalf of the Employee.

14.4 The Employee will cooperate and render all assistance as may be reasonably requested by the Employer with respect to any applications, filings, or actions in relation to the Intellectual Property, including any applications for letters patent or for copyright or trade-mark registration, and any legal action or potential legal action which relates to the Intellectual Property. The Employer will reimburse the Employee for all reasonable expenses for such cooperation and assistance.

15. Injunctive Relief:

15.1 The employee acknowledges the value of the Confidential Information as defined in clause 13, Confidential Information and Trade Secrets, to the Employer. The Employee further acknowledges that any material breach or threatened breach of any of the provisions contained in clause 13 by the Employee may cause material and irreparable harm to the Employer which may not be reasonably or adequately compensated for by damages in an action at law.

15.2 The Employee agrees that in the event of a breach or threatened breach of any of the provisions of clause 13, the Employer shall be entitled to an injunction in addition to any other remedies it may be entitled to at law and in equity.

16. Notice of Publication:

16.1 The Employee agrees that this Agreement and any records and information created or collected pursuant to the Employee's employment (including, but not limited to, the Employee's name, classification, salary, benefits and employment responsibilities) may be disclosed by the Employer. Decisions about disclosure are in the Employer's sole discretion in accordance with the *Public Sector Compensation Transparency Act* and any other applicable acts, regulations, directives, guidelines and policies.

17. Entire Agreement:

17.1 Subject to clause 17.2, this Agreement is the entire Agreement between the parties and replaces any previous agreements or arrangements between the parties. There have been no representations or warranties made by the parties except as contained in this Agreement.

17.2 The parties understand and agree that there are other enactments, administrative directives and Orders in Council, which also impose rights, duties and obligations on the parties and which may be amended from time to time without notice to the Employee. In the event of a conflict between this Agreement and enactments, administrative directives or Orders in Council, the enactments, administrative directives and Orders in Council shall govern.

17.3 Acts, regulations, directives, codes, policies, authorities and guidelines referred to in this Agreement, may be amended, repealed or replaced from time to time without notice to the Employee.

18. Survival of Terms:

18.1 Despite any other provision of this Agreement, those clauses which by their nature continue after the termination or expiry of this Agreement will continue after such termination or expiry, including those clauses pertaining to:

- (a) Termination by Employer;
- (b) No Retirement Benefits; (if Employee has chosen payment in lieu of pension plan participation);
- (c) Materials Ownership;
- (d) Confidential Information and Trade Secrets;
- (e) Ownership of Intellectual Property;

- (f) Injunctive Relief; and
- (g) Notice of Publication.

19. Amendment:

- 19.1 The parties may agree to make written amendments to the terms of this Agreement.

20. Severability:

- 20.1 If a term of this Agreement is held to be invalid, illegal or unenforceable, that term is deemed to be severed and the remaining terms of this Agreement continue to operate.

21. Waiver:

- 21.1 The failure of either party to this Agreement to enforce any of its terms, provisions or covenants will not be construed as a waiver of the same or of the right of such party to enforce the same. Waiver by either party hereto of any breach by the other party of any terms or provisions of this Agreement will not operate as a waiver of any other breach or default.


22. Notices, Approvals and Requests:

- 22.1 Notices, approvals and requests referred to in this Agreement shall be in writing and, if under clauses, 8, Discipline and Termination for Just Cause, 9, Termination by Employer 10, Termination by Employee, and 11, Notice of Charge shall be personally delivered or sent by recorded mail to the Employer or Employee at the address provided below.

TO THE EMPLOYER

President of Executive Council
307 Legislature Building, Edmonton, AB T5K 2B6

TO THE EMPLOYEE AT:

Marshall Smith


Notices, approvals and requests are deemed to have been served as follows:

- (a) If personally delivered, upon delivery;
- (b) If by registered mail, on the third day after mailing.

- 22.2 All other notices, approvals and requests under this Agreement that are not referred to in clause 22.1 may be given in accordance with clause 22.1 or by e-mail and are deemed to have been provided 72 hours after the time of sending.

- 22.3 The contact information for notices, approvals and requests may be changed by notice to the other party.

23. Jurisdiction:

- 23.1 This Agreement shall be interpreted in accordance with the laws in force in the Province of Alberta. The parties agree to submit to the jurisdiction of the courts of the Province of Alberta.

24. Headings:

- 24.1 The headings in this Agreement have been included for convenience only and they do not define, limit or enlarge the scope or meaning of this Agreement or any part of it.

25. Singular/Plural:

- 25.1 In this Agreement, words in the singular include the plural and words in the plural include the singular.

26. Execution:

- 26.1 This Agreement may be executed in counterparts, and delivered in PDF format by email or fax. A signature delivered by way of email or fax shall be as binding and effective as an original signature.

27. Independent Legal Advice:

- 27.1 The Employee acknowledges and confirms that the Employee has read this Agreement and understands it. The Employee acknowledges that the Employee has had an opportunity to consider this Agreement and obtain independent legal or professional advice before signing it. By executing this Agreement, the Employee confirms that the Employee had the opportunity to seek independent legal or professional advice and has either obtained such advice or has waived the right to obtain such advice.

This Agreement is signed by the parties' representatives and is effective as of the Effective Date.

HIS MAJESTY THE KING IN RIGHT OF ALBERTA, as represented by the PRESIDENT OF EXECUTIVE COUNCIL



President of Executive Council

Oct 11 2022

Date:



Witness signature and print name

Chris Myherson

Oct 11, 2022

Date:



Oct 11 2022

Date:

EMPLOYMENT AGREEMENT AMENDMENT

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,
AS REPRESENTED BY THE CHIEF OF STAFF, OFFICE OF THE PREMIER
(the "Employer")**

- and -

**MARSHALL SMITH
(the "Employee")**

Background:

The Employer and Employee entered into an Employment Agreement pursuant to Order in Council, 502/2014, Premier's and Ministers' Staff Employment Order ("PMSEO") effective September 28, 2020 (the "Agreement"). The Parties agree the original Agreement remains in place.

The Base Salary in the Agreement is subject to review and adjustment during the Term pursuant to Clause 3.1 of the Agreement.

Pursuant to Clause 20.1 of the Agreement, the Employer and Employee can agree to amend the Agreement.

The Parties agree as follows:

1. The Background is part of this Employment Agreement Amendment.
2. Clause 3.1 of the Agreement is amended by deleting \$5,363.99 (Base Salary) and inserting \$5,013.07 (Base Salary).
3. This Employment Agreement Amendment is effective October 19, 2020.

This Agreement is signed by the parties' representatives.

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,
as represented by the Chief of Staff, Office of the
Premier**

Per: 

Name: Jamie Huggabay

Title: Chief of Staff, Office of the Premier

Date: Oct 21/20

Witness signature and print name
EMLY ANDERSON

Date:

Oct. 21, 2020


Marshall Smith

Date:

10-21-2020

EMPLOYMENT AGREEMENT
(this "Agreement")

THIS AGREEMENT is dated Oct 1st, 2020 (the "Effective Date")

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,
AS REPRESENTED BY THE CHIEF OF STAFF, OFFICE OF THE PREMIER**
(the "Employer")

- and -

MARSHALL SMITH
(the "Employee")

This Agreement is entered into pursuant to Order in Council, 502/2014, Premier's and Ministers' Staff Employment Order ("PMSEO").

The Employer and Employee agree as follows:

1. Position and Term:

- 1.1 The Employer will employ the Employee in the position of Chief of Staff (the "Position"). The Employee will perform the duties of the position on a full-time basis.
- 1.2 The Employee will report to the Chief of Staff, Office of the Premier ("Chief of Staff") for Ministry assignments. The Chief of Staff may change the assignment to a different Ministry during the Term of the Agreement, in the sole discretion of the Chief of Staff.
- 1.3 The Employee's employment will start on September 28, 2020 and will continue until the end of the day on May 31, 2023 (the "Term"), unless terminated earlier in accordance with this Agreement. This Agreement is for a fixed term and it will not be combined with any prior employment agreements between the Employer and the Employee to create a contract of indefinite duration.
- 1.4 As a condition precedent to this Agreement, the Employee agrees to undertake a security clearance in accordance with the requirements of the Employer.
- 1.5 The Employee consents to the disclosure and release of personal information by the Employer for the purpose of conducting a security clearance to determine the Employee's suitability for employment. If additional consent is required, the Employee will provide the necessary consent to release personal information to the Employer, when requested, to enable disclosure to third parties the Employer deems necessary to assist in obtaining the security clearance.
- 1.6 If the Employer, in its sole discretion, finds the security screening to be unsatisfactory, this Agreement is void.

2. Conduct:

- 2.1 The Employee will perform the duties of the Position and all additional duties as directed by the Employer, (collectively the "Duties").
- 2.2 The Employee agrees to devote the Employee's full attention to the performance of the Duties and to perform the Duties faithfully, diligently and to the best of the Employee's abilities. The Employee will not be involved in any appointment, business or undertaking or employment other than employment under this Agreement ("**Concurrent Employment**") except with the prior written approval of the Employer. The Employer, in its sole discretion, reserves the right to revoke approval for Concurrent Employment.

- 2.3 The Employee agrees to review and comply with the *Code of Conduct for Employees Serving in the Offices of the Premier and Cabinet Ministers* contained in the PMSEO, all applicable supplemental codes of conduct and all other acts, regulations, directives, policies and rules of the Employer respecting the performance of the Duties and the conduct of employees generally.
- 2.4 The Employee acknowledges that during the Term, the Employee will be subject to provisions of the *Conflicts of Interest Act* as a member of the Premier's and Ministers' staff. The Employee will comply with all applicable restrictions and obligations outlined in Part 4.2 of the *Conflicts of Interest Act* and any related regulations, directives, and guidelines, including but not limited to restrictions on post-employment, Concurrent Employment, furthering private interests, using influence or insider information, as well as obligations concerning financial disclosure and disclosure of real or apparent conflicts of interest.
- 2.5 The Employee acknowledges and agrees that the Employer may disclose this Agreement, in its entirety, to the Ethics Commissioner for the purposes of assisting the Ethics Commissioner in carrying out the Ethics Commissioner's duties and functions under the *Conflicts of Interest Act*.
3. **Base Salary:**
- 3.1 The Employee will be paid a biweekly base salary of **\$5,363.99** (the "**Base Salary**") less employee benefit premiums and required deductions and withholdings. The Base Salary is subject to review and adjustment during the Term by the Chief of Staff in accordance with Schedule 1 of the PMSEO.
4. **No Other Rights or Benefits:**
- 4.1 The Employee shall not be entitled to any of the rights or benefits afforded to employees of the public service of Alberta except as provided for in this Agreement.
5. **Benefits:**
- 5.1 The Employee is eligible for the following benefits described in the *Public Service Employment Regulation* (the "**Regulation**") in accordance with the Regulation:
- (a) Vacation leave;
 - (b) Vacation Supplement;
 - (c) Paid Holidays;
 - (d) Special Leave;
 - (e) Parental Leave;
 - (f) Casual Illness Leave;
 - (g) General Illness Leave;
 - (h) Approved Leaves of Absence; and
 - (i) Christmas Closure.
- 5.2 A medical certificate, in a form satisfactory to the Employer, must be provided to the Employer for any illness leave in excess of 5 consecutive days and failure to provide a satisfactory medical certificate may result in any subsequent consecutive days being recorded as "unpaid" until the appropriate medical certificate is received.
- 5.3 Any accrued vacation entitlement not taken by the Employee at termination, notice of termination or expiry of this Agreement may be paid to the Employee, or alternatively the vacation time may be taken by the Employee prior to termination or expiry by the agreement of the parties.
- 5.4 The Employee may be eligible to participate in the Employer's 1st Choice benefits program in accordance with the plan, policies and governing documents of the benefits

plan. The eligibility to claim benefits in accordance with plan policies and governing documents shall be determined by the administrator of the plan. The Employer will not be liable in respect of eligibility or coverage decisions. The Employer will have the right to make changes to the 1st Choice benefits plan, policies and governing documents affecting coverage or to obtain different coverage without providing the Employee with prior reasonable notice.

- 5.5 The Employee may participate in the Public Service Long Term Disability Income Continuance Plan (LTDI). All issues relating to eligibility to participate in this plan and coverage issues will be determined by the adjudicator of this plan. The Employer will not have any liability in respect of eligibility or coverage decisions. The Employer will have the right to make changes to this plan or obtain different coverage without providing the Employee with prior reasonable notice. For additional certainty, the Employee is in a temporary position for the purposes of determining when benefits will terminate under the *Public Service Long Term Disability Income Continuance Plan Regulation*.

6. ~~**Retirement Benefits:**~~ **OR** ~~**No Retirement Benefits:**~~

- 6.1 ~~The Employee may participate or continue to participate in the Management Employees Pension Plan ("MEPP") effective the start date of the Term of this Agreement.~~
- 6.2 ~~Should the Employee cease to be eligible to contribute to MEPP, no further compensation will be provided in lieu of this benefit.~~

OR

- 6.1 In lieu of retirement benefits, the Employee will receive a payment established by the Public Service Commission as being equivalent to the Employer contribution to the Management Employees Pension Plan on behalf of the Employee. Currently this payment is equivalent to 13.20% of the Base Salary.
- 6.2 Payment will be made, less required deductions and withholdings, to the Employee at the end of each biweekly pay period during the Term or a prorated portion thereof should the date of commencement or termination require.
- 6.3 By choosing pay in lieu of pension the Employee agrees that service under this Agreement is not eligible for pensionable service under any Government of Alberta pension plan later participated in by the Employee. This option is irrevocable.

7. **Business Expenses:**

- 7.1 The Employee may be directed by the Employer to travel. Reasonable business expenses incurred while performing the duties of the Position may be reimbursed to the Employee in accordance with the *Public Service Relocation and Employment Expenses Regulation* and the Alberta Treasury Board and Finance *Travel, Meal and Hospitality Expenses Directive* and is subject to the Alberta Treasury Board and Finance *Public Disclosure of Travel Expenses Directive*.

8. **Relocation Expenses:**

- 8.1 The Employee was provided relocation expenses and allowances as provided for in the *Public Service Relocation and Employment Expenses Regulation* effective May 6, 2019. The Return Service Agreement forms part of this Agreement and is attached as Schedule B.

9. **Discipline and Termination for Just Cause:**

- 9.1 The Employer may terminate this Agreement at any time for just cause in accordance with the common law and this Agreement. Just cause includes, but is not limited to: theft, fraud, dishonesty, failure to disclose requested information, breach of fiduciary duties or conduct contrary to or in breach of any obligation under clause 2 conduct, clause 12 failure to disclose a charge, clause 14, breach of obligations not to release confidential

information and trade secrets. In the event of termination for just cause, no termination notice or pay in lieu of notice will be provided.

10. Termination by Employer:

10.1 The Employer may terminate this Agreement at any time by giving written notice to the Employee. This notice is intended to replace common law reasonable notice with certainty. The required termination notice will be the greater of the Employee's entitlement pursuant to the *Employment Standards Code* or:

10.1.1 twelve (12) weeks if the employee has less than one (1) year of continuous employment; or

10.1.2 twelve (12) weeks after the first year of continuous employment, plus an additional four (4) weeks for each additional year of continuous employment with the Employer to a maximum of twenty-six (26) weeks (the "Notice Period").

10.2 In lieu of termination notice, the Employer may, in its sole discretion, pay the Employee an amount equal to the Base Salary for the Notice Period, or a combination of termination notice and pay in lieu of notice (the "Severance Payment").

10.3 In exchange for the Severance Payment as described in clauses 10.2, the Employee agrees to execute a restrictive agreement and release that includes at least the following terms:

[x] If, during the Notice Period, the Employee is employed or retained directly or indirectly through another legal entity on a fee for service basis by a "department" (as defined in the *Public Service Act*), a "Provincial agency" (as defined in the *Reform of Agencies, Boards and Commissions Compensation Act*) or an entity where such employment or contractual arrangement is in violation of any section under Part 4.2 of the *Conflicts of Interest Act*, then the Employee will repay the Employer the gross amount paid by the Crown, Provincial agency, or other entity before statutory deductions to the Employee or the corporation, as the case may be, during the Notice Period to the maximum amount of the Severance Payment. The amount payable pursuant to this clause shall not exceed the gross Severance Payment, prior to statutory withholdings. These amounts shall be paid by the Employee to the Employer forthwith following completion of the notice period, in addition to any fine imposed or restitution ordered under Part 4.2 of the *Conflicts of Interest Act*. The parties acknowledge and agree that mitigation and the obligation to repay earnings shall not apply to those amounts contemplated in sections 56 and 57 of the *Employment Standards Code*.

[xx] The Employee acknowledges and agrees that clauses 10.1, 10.2 and 10.3 of the Agreement are reasonable and accepts the termination notice, payment in lieu of notice or combination thereof in full satisfaction of any claims or actions, including for common law entitlement. The Employee releases and discharges the Employer, the Government of Alberta and its agents and employees from any and all claims, complaints or causes of action which the Employee had, now has or may have in the future:

(a) arising out of or related to the Employee's employment or the termination of the Employee's employment with the Employer;

(b) for loss of disability, medical, illness or other health benefits; and

(c) arising under the *Public Service Act*, *Employment Standards Code*, *Alberta Human Rights Act*, *Workers Compensation Act*, *Occupational Health and Safety Act*, *Freedom of Information and Protection of Privacy Act*, *Public Service Long Term Disability Income Continuance Plan Regulation*, and any amendments or regulations passed under those enactments.

11. Termination by Employee:

- 11.1 The Employee may terminate this Agreement by providing at least four (4) weeks' written notice to the Employer. The Employer reserves the right to waive all or part of the notice period, in which case the Employee will be paid the Base Salary during the waived period.
- 11.2 This Agreement will automatically end on the death of the Employee and no notice or pay in lieu of notice will apply.

12. Notice of Charge:

- 12.1 The Employee will immediately notify the Employer if the Employee is charged with any offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or an offence under provincial or municipal legislation.

13. Materials Ownership:

- 13.1 All documents, electronic records, software, manuals, and other materials produced or used by the Employee in connection with the performance of this Agreement, other than publicly available materials (the "**Materials**"), are the property of the Employer. Upon termination or expiry of this Agreement or upon request of the Employer, the Employee will immediately return all Materials to the Employer. It is expressly prohibited for the Employee to retain copies of Materials in any form without the written consent of the Employer. Any benefits resulting from the development of Materials shall accrue to the benefit of the Employer and, if provided to the Employee, shall be held in trust by the Employee for the Employer.
- 13.2 The Employee will not make for the Employee's own use or for the use of anyone else, copies or reproductions of the Materials. The Employee, or the Employee's estate representative, will return all materials upon termination of the Agreement, however caused.

14. Confidential Information and Trade Secrets:

- 14.1 Any confidential information or trade secrets acquired or created by the Employee in the performance of this Agreement, or any prior employment agreement with the Employer (the "**Confidential Information**") will not be used or disclosed to anyone unless release is specifically approved by the Employer. Confidential Information includes any information whether in writing or not, which is not generally known to the public, and which could, if used, communicated or divulged, cause damage or embarrassment, loss of reputation, or other harm to the Employer. Confidential information shall not be used or disclosed unless specifically approved by the Employer. Any benefits resulting from the development of Confidential Information shall accrue to the benefit of the Employer and, if provided to the Employee, shall be held in trust by the Employee for the Employer.
- 14.2 The duty not to release Confidential Information is in addition to the common law duties of confidentiality and fidelity.

15. Ownership of Intellectual Property:

- 15.1 All rights, title and interest in and to all intellectual property that may be conceived, created or developed during the course of employment of the Employee with the Employer (the "**Intellectual Property**") will belong solely to the Employer.
- 15.2 The Employee waives all moral rights in any copyright works authorized or coauthored by the Employee in the performance of the Employee's duties and obligations under this Agreement. The Employee will execute a written waiver of moral right in any copyright works authored or coauthored by the Employee immediately upon the request of the Employer.

15.3 The Employee will execute such assignment and other documents as are required by the Employer to transfer all right, title and interest in and to all Intellectual Property to the Employer. In the event that the Employee fails to execute such assignment and other documents within ten (10) business days after a written request from the Employer, the Employee hereby appoints the Employer as the Employee's attorney to execute such assignment and other documents on behalf of the Employee.

15.4 The Employee will cooperate and render all assistance as may be reasonably requested by the Employer with respect to any applications, filings, or actions in relation to the Intellectual Property, including any applications for letters patent or for copyright or trade-mark registration, and any legal action or potential legal action which relates to the Intellectual Property. The Employer will reimburse the Employee for all reasonable expenses for such cooperation and assistance.

16. Injunctive Relief:

16.1 The employee acknowledges the value of the Confidential Information as defined in clause 14, Confidential Information and Trade Secrets, to the Employer. The Employee further acknowledges that any material breach or threatened breach of any of the provisions contained in clause 14 by the Employee may cause material and irreparable harm to the Employer which may not be reasonably or adequately compensated for by damages in an action at law.

16.2 The Employee agrees that in the event of a breach or threatened breach of any of the provisions of clause 14, the Employer shall be entitled to an injunction in addition to any other remedies it may be entitled to at law and in equity.

17. Notice of Publication:

17.1 The Employee agrees that this Agreement and any records and information created or collected pursuant to the Employee's employment (including, but not limited to, the Employee's name, classification, salary, benefits and employment responsibilities) may be disclosed by the Employer. Decisions about disclosure are in the Employer's sole discretion in accordance with the *Public Sector Compensation Transparency Act* and any other applicable acts, regulations, directives, guidelines and policies.

18. Entire Agreement:

18.1 Subject to clause 18.2, this Agreement is the entire Agreement between the parties and replaces any previous agreements or arrangements between the parties. There have been no representations or warranties made by the parties except as contained in this Agreement.

18.2 The parties understand and agree that there are other enactments, administrative directives and Orders in Council, which also impose rights, duties and obligations on the parties and which may be amended from time to time without notice to the Employee. In the event of a conflict between this Agreement and enactments, administrative directives or Orders in Council, the enactments, administrative directives and Orders in Council shall govern.

18.3 Acts, regulations, directives, codes, policies, authorities and guidelines referred to in this Agreement, may be amended, repealed or replaced from time to time without notice to the Employee.

19. Survival of Terms:

19.1 Despite any other provision of this Agreement, those clauses which by their nature continue after the termination or expiry of this Agreement will continue after such termination or expiry, including those clauses pertaining to:

(a) Termination by Employer;

- (b) No Retirement Benefits; (if Employee has chosen payment in lieu of pension plan participation);
- (c) Materials Ownership;
- (d) Confidential Information and Trade Secrets;
- (e) Ownership of Intellectual Property;
- (f) Injunctive Relief; and
- (g) Notice of Publication.

20. Amendment:

20.1 The parties may agree to make written amendments to the terms of this Agreement.

21. Severability:

21.1 If a term of this Agreement is held to be invalid, illegal or unenforceable, that term is deemed to be severed and the remaining terms of this Agreement continue to operate.

22. Waiver:

22.1 The failure of either party to this Agreement to enforce any of its terms, provisions or covenants will not be construed as a waiver of the same or of the right of such party to enforce the same. Waiver by either party hereto of any breach by the other party of any terms or provisions of this Agreement will not operate as a waiver of any other breach or default.

23. Notices, Approvals and Requests:

23.1 Notices, approvals and requests referred to in this Agreement shall be in writing and, if under clauses, 9, Discipline and Termination for Just Cause, 10, Termination by Employer, 11, Termination by Employee, and 12, Notice of Charge, shall be personally delivered or sent by recorded mail to the Employer or Employee at the address provided below.

TO THE EMPLOYER

Chief of Staff, Office of the Premier
307 Legislature Building, Edmonton, AB T5K 2B6

TO THE EMPLOYEE AT:

Marshall Smith
[REDACTED]

Notices, approvals and requests are deemed to have been served as follows:

- (a) If personally delivered, upon delivery;
- (b) If by registered mail, on the third day after mailing.

23.2 All other notices, approvals and requests under this Agreement that are not referred to in clause 23.1 may be given in accordance with clause 23.1 or by e-mail and are deemed to have been provided 72 hours after the time of sending.

23.3 The contact information for notices, approvals and requests may be changed by notice to the other party.

24. Jurisdiction:

24.1 This Agreement shall be interpreted in accordance with the laws in force in the Province of Alberta. The parties agree to submit to the jurisdiction of the courts of the Province of Alberta.

25. Headings:

25.1 The headings in this Agreement have been included for convenience only and they do not define, limit or enlarge the scope or meaning of this Agreement or any part of it.

26. Singular/Plural:

26.1 In this Agreement, words in the singular include the plural and words in the plural include the singular.

27. Execution:

27.1 This Agreement may be executed in counterparts, and delivered in PDF format by email or fax. A signature delivered by way of email or fax shall be as binding and effective as an original signature.

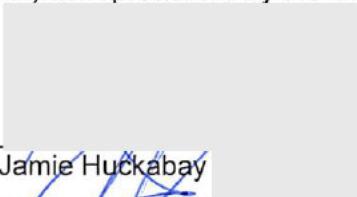
28. Independent Legal Advice:

28.1 The Employee acknowledges and confirms that the Employee has read this Agreement and understands it. The Employee acknowledges that the Employee has had an opportunity to consider this Agreement and obtain independent legal or professional advice before signing it. By executing this Agreement, the Employee confirms that the Employee had the opportunity to seek independent legal or professional advice and has either obtained such advice or has waived the right to obtain such advice.

This Agreement is signed by the parties' representatives and is effective as of the Effective Date.

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA, as represented by the Chief of Staff

Per:



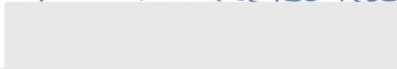
Name: Jamie Huckabay

Title: Chief of Staff, Office of the Premier

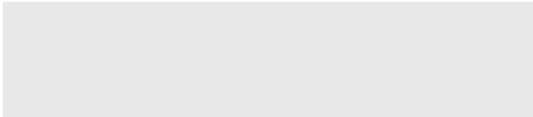
2-Oct-2020

Date:

Diane MacDonald



Witness signature and print name



Marshall Smith

OCT 1, 2020

Date:

October 1 2020

Date:

Schedule B

RETURN SERVICE COMMITMENT AGREEMENT

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,
AS REPRESENTED BY THE CHIEF OF STAFF, OFFICE OF THE PREMIER
(the "Employer")**

- and -

**MARSHALL SMITH
(the "Employee")**

1. In this agreement,
 - (a) "chief of staff" means the Chief of Staff, Office of the Premier
 - (b) "relocation assistance" means the total amount of money paid to or on behalf of the Employee by the Employer, as shown in paragraph 2,
 - (c) "service period" means 24 months immediately following commencement of the Employee's employment with the Employer.
2. The Employee is eligible for relocation assistance in the maximum amount of Five Thousand Dollars (\$5,000).
3. If the Employee does not remain employed with the Employer until the expiry of the service period, the Employee agrees to repay to the Employer:
 - (a) all or a portion of the relocation assistance, calculated in accordance with the formula in paragraph 4, and
 - (b) interest, from the effective date of termination of employment to the date the relocation assistance is repaid in full.
4. The formula to be used to calculate repayment shall be as follows:

Repayment =
$$\frac{\text{Total amount of relocation assistance}}{522 \text{ work days}} \times \text{Number of work days remaining in the service period}$$
5. Interest payable under clause 3 of this Agreement will be calculated in accordance with the *Charging of Interest on Amounts Owed to the Crown Regulation 235/1988*.
6. A repayment of relocation assistance must be made before the effective date of termination of the Employee's employment, unless the Employee has undertaken to make installment payments in accordance with a payment plan agreed to by the chief of staff.

7. Unless arrangements have been made for instalment payments, if any amount remains unpaid by the Employee on the effective date of termination of his or her employment, the Employer may subtract that amount from any amount that is owing to the Employee by the Employer upon termination.
8. Should the Employee be granted a leave of absence without pay, this agreement shall be automatically extended by the period of the leave and such time shall not be included as service completed by the Employee.
9. The chief of staff may waive any obligation of the Employee under this agreement if the chief of staff considers it appropriate to do so.
10. Either party may propose an amendment to this agreement by giving notice in writing to the other party. If the other party agrees with the amendment, both parties must sign an amending agreement.
11. Notice under clause 9 must be given personally or by email at the following addresses:

To the Employer at:
Chief of Staff, Office of the Premier
Jamie.huckabay@gov.ab.ca

To the Employee at:

[Redacted]

If notice is sent by email it is deemed to have been received 72 hours after sending.

This agreement is signed on the 16 day of May, 2019

[Redacted]

the Crown as represented by the
Chief of Staff, Office of the Premier

[Redacted]

Witness

[Redacted]

Marshall Smith
Employee

[Redacted]

Witness

EMPLOYMENT AGREEMENT
(this "Agreement")

THIS AGREEMENT is dated May 16, 2019 (the "Effective Date")

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,
AS REPRESENTED BY THE CHIEF OF STAFF, OFFICE OF THE PREMIER**
(the "Employer")

- and -

MARSHALL SMITH
(the "Employee")

This Agreement is entered into pursuant to Order in Council, 502/2014, Premier's and Ministers' Staff Employment Order ("PMSEO").

The Employer and Employee agree as follows:

1. Position and Term:

- 1.1 The Employer will employ the Employee in the position of Chief of Staff (the "Position"). The Employee will perform the duties of the position on a full-time basis.
- 1.2 The Employee will report to the Chief of Staff, Office of the Premier ("Chief of Staff") for Ministry assignments. The Chief of Staff may change the assignment to a different Ministry during the Term of the Agreement, in the sole discretion of the Chief of Staff.
- 1.3 The Employee's employment will start on May 6, 2019 and will continue until the end of the day on May 31, 2023 (the "Term"), unless terminated earlier in accordance with this Agreement. This Agreement is for a fixed term and it will not be combined with any prior employment agreements between the Employer and the Employee to create a contract of indefinite duration.
- 1.4 As a condition precedent to this Agreement, the Employee agrees to undertake a security clearance in accordance with the requirements of the Employer.
- 1.5 The Employee consents to the disclosure and release of personal information by the Employer for the purpose of conducting a security clearance to determine the Employee's suitability for employment. If additional consent is required, the Employee will provide the necessary consent to release personal information to the Employer, when requested, to enable disclosure to third parties the Employer deems necessary to assist in obtaining the security clearance.
- 1.6 If the Employer, in its sole discretion, finds the security screening to be unsatisfactory, this Agreement is void.

2. Conduct:

- 2.1 The Employee will perform the duties of the Position and all additional duties as directed by the Employer, (collectively the "Duties").
- 2.2 The Employee agrees to devote the Employee's full attention to the performance of the Duties and to perform the Duties faithfully, diligently and to the best of the Employee's abilities. The Employee will not be involved in any appointment, business or undertaking or employment other than employment under this Agreement ("**Concurrent Employment**") except with the prior written approval of the Employer. The Employer, in its sole discretion, reserves the right to revoke approval for Concurrent Employment.

- 2.3 The Employee agrees to review and comply with the *Code of Conduct for Employees Serving in the Offices of the Premier and Cabinet Ministers* contained in the PMSEO, all applicable supplemental codes of conduct and all other acts, regulations, directives, policies and rules of the Employer respecting the performance of the Duties and the conduct of employees generally.
- 2.4 The Employee acknowledges that during the Term, the Employee will be subject to provisions of the *Conflicts of Interest Act* as a member of the Premier's and Ministers' staff. The Employee will comply with all applicable restrictions and obligations outlined in Part 4.2 of the *Conflicts of Interest Act* and any related regulations, directives, and guidelines, including but not limited to restrictions on post-employment, Concurrent Employment, furthering private interests, using influence or insider information, and holding public securities, as well as obligations concerning financial disclosure and disclosure of real or apparent conflicts of interest.
- 2.5 The Employee acknowledges and agrees that the Employer may disclose this Agreement, in its entirety, to the Ethics Commissioner for the purposes of assisting the Ethics Commissioner in carrying out the Ethics Commissioner's duties and functions under the *Conflicts of Interest Act*.

3. Base Salary:

- 3.1 The Employee will be paid a biweekly base salary of **\$4,597.70**, (the "**Base Salary**") less employee benefit premiums and required deductions and withholdings. The Base Salary is subject to review and adjustment during the Term by the Chief of Staff in accordance with Schedule 1 of the PMSEO.

4. No Other Rights or Benefits:

- 4.1 The Employee shall not be entitled to any of the rights or benefits afforded to employees of the public service of Alberta except as provided for in this Agreement.

5. Benefits:

- 5.1 The Employee is eligible for the following benefits described in the *Public Service Employment Regulation* (the "**Regulation**") in accordance with the Regulation:
- (a) Vacation leave;
 - (b) Vacation Supplement;
 - (c) Paid Holidays;
 - (d) Special Leave;
 - (e) Parental Leave;
 - (f) Casual Illness Leave;
 - (g) General Illness Leave;
 - (h) Approved Leaves of Absence; and
 - (i) Christmas Closure.
- 5.2 A medical certificate, in a form satisfactory to the Employer, must be provided to the Employer for any illness leave in excess of 5 consecutive days and failure to provide a satisfactory medical certificate may result in any subsequent consecutive days being recorded as "unpaid" until the appropriate medical certificate is received.
- 5.3 Any accrued vacation entitlement not taken by the Employee at termination, notice of termination or expiry of this Agreement may be paid to the Employee, or alternatively the vacation time may be taken by the Employee prior to termination or expiry by the agreement of the parties.
- 5.4 The Employee may be eligible to participate in the Employer's 1st Choice benefits program in accordance with the plan, policies and governing documents of the benefits

plan. The eligibility to claim benefits in accordance with plan policies and governing documents shall be determined by the administrator of the plan. The Employer will not be liable in respect of eligibility or coverage decisions. The Employer will have the right to make changes to the 1st Choice benefits plan, policies and governing documents affecting coverage or to obtain different coverage without providing the Employee with prior reasonable notice.

- 5.5 The Employee may participate in the Public Service Long Term Disability Income Continuance Plan (LTDI). All issues relating to eligibility to participate in this plan and coverage issues will be determined by the adjudicator of this plan. The Employer will not have any liability in respect of eligibility or coverage decisions. The Employer will have the right to make changes to this plan or obtain different coverage without providing the Employee with prior reasonable notice. For additional certainty, the Employee is in a temporary position for the purposes of determining when benefits will terminate under the *Public Service Long Term Disability Income Continuance Plan Regulation*.

6. Retirement Benefits: OR No Retirement Benefits:

- 6.1 ~~The Employee may participate or continue to participate in the Management Employees Pension Plan ("MEPP") effective the start date of the Term of this Agreement.~~
- 6.2 ~~Should the Employee cease to be eligible to contribute to MEPP, no further compensation will be provided in lieu of this benefit.~~

OR

- 6.1 In lieu of retirement benefits, the Employee will receive a payment established by the Public Service Commission as being equivalent to the Employer contribution to the Management Employees Pension Plan on behalf of the Employee. Currently this payment is equivalent to 14.36% of the Base Salary.
- 6.2 Payment will be made, less required deductions and withholdings, to the Employee at the end of each biweekly pay period during the Term or a prorated portion thereof should the date of commencement or termination require.
- 6.3 By choosing pay in lieu of pension the Employee agrees that service under this Agreement is not eligible for pensionable service under any Government of Alberta pension plan later participated in by the Employee. This option is irrevocable.

7. Business Expenses:

- 7.1 The Employee may be directed by the Employer to travel. Reasonable business expenses incurred while performing the duties of the Position may be reimbursed to the Employee in accordance with the *Public Service Relocation and Employment Expenses Regulation* and the Alberta Treasury Board and Finance *Travel, Meal and Hospitality Expenses Directive* and is subject to the Alberta Treasury Board and Finance *Public Disclosure of Travel Expenses Directive*.

8. Relocation Expenses:

- 8.1 The Employee will be eligible for relocation expenses and allowances as provided in the *Public Service Relocation and Employment Expenses Regulation*, up to a maximum amount of \$5,000. The Return Service Agreement forms part of this Agreement and is attached as Schedule B.

9. Termination During Probation:

- 9.1 During the first twelve (12) months of the Term of this Agreement, the Employee will be considered on probation and may be subject to termination of this Agreement for unsuitability. In the event of unsuitability, no notice or pay in lieu of notice will apply pursuant to clause 11 or the common law. The Employer will pay the Employee termination pay as required by the *Employment Standards Code*.

10. Discipline and Termination for Just Cause:

10.1 The Employer may terminate this Agreement at any time for just cause in accordance with the common law and this Agreement. Just cause includes, but is not limited to: theft, fraud, dishonesty, failure to disclose requested information, breach of fiduciary duties or conduct contrary to or in breach of any obligation under clause 2 conduct, clause 13 failure to disclose a charge, clause 15, breach of obligations not to release confidential information and trade secrets. In the event of termination for just cause, no termination notice or pay in lieu of notice will be provided.

11. Termination by Employer:

11.1 The Employer may terminate this Agreement at any time by giving written notice to the Employee. This notice is intended to replace common law reasonable notice with certainty. The required termination notice will be the greater of the Employee's entitlement pursuant to the *Employment Standards Code* or:

11.1.1 twelve (12) weeks if the employee has less than one (1) year of continuous employment; or

11.1.2 twelve (12) weeks after the first year of continuous employment, plus an additional four (4) weeks for each additional year of continuous employment with the Employer to a maximum of twenty-six (26) weeks (the "Notice Period").

11.2 In lieu of termination notice, the Employer may, in its sole discretion, pay the Employee an amount equal to the Base Salary for the Notice Period, or a combination of termination notice and pay in lieu of notice (the "Severance Payment").

11.3 In exchange for the Severance Payment as described in clauses 11.2, the Employee agrees to execute a restrictive agreement and release that includes at least the following terms:

[x] If, during the Notice Period, the Employee is employed or retained directly or indirectly through another legal entity on a fee for service basis by a "department" (as defined in the *Public Service Act*), a "Provincial agency" (as defined in the *Reform of Agencies, Boards and Commissions Compensation Act*) or an entity where such employment or contractual arrangement is in violation of any section under Part 4.2 of the *Conflicts of Interest Act*, then the Employee will repay the Employer the gross amount paid by the Crown, Provincial agency, or other entity before statutory deductions to the Employee or the corporation, as the case may be, during the Notice Period to the maximum amount of the Severance Payment. The amount payable pursuant to this clause shall not exceed the gross Severance Payment, prior to statutory withholdings. These amounts shall be paid by the Employee to the Employer forthwith following completion of the notice period, in addition to any fine imposed or restitution ordered under Part 4.2 of the *Conflicts of Interest Act*. The parties acknowledge and agree that mitigation and the obligation to repay earnings shall not apply to those amounts contemplated in sections 56 and 57 of the *Employment Standards Code*.

[xx] The Employee acknowledges and agrees that clauses 11.1, 11.2 and 11.3 of the Agreement are reasonable and accepts the termination notice, payment in lieu of notice or combination thereof in full satisfaction of any claims or actions, including for common law entitlement. The Employee releases and discharges the Employer, the Government of Alberta and its agents and employees from any and all claims, complaints or causes of action which the Employee had, now has or may have in the future:

(a) arising out of or related to the Employee's employment or the termination of the Employee's employment with the Employer;

- (b) for loss of disability, medical, illness or other health benefits; and
- (c) arising under the *Public Service Act, Employment Standards Code, Alberta Human Rights Act, Workers Compensation Act, Occupational Health and Safety Act, Freedom of Information and Protection of Privacy Act, Public Service Long Term Disability Income Continuance Plan Regulation*, and any amendments or regulations passed under those enactments.

12. Termination by Employee:

- 12.1 The Employee may terminate this Agreement by providing at least four (4) weeks' written notice to the Employer. The Employer reserves the right to waive all or part of the notice period, in which case the Employee will be paid the Base Salary during the waived period.
- 12.2 This Agreement will automatically end on the death of the Employee and no notice or pay in lieu of notice will apply.

13. Notice of Charge:

- 13.1 The Employee will immediately notify the Employer if the Employee is charged with any offence under the *Criminal Code (Canada)*, the *Controlled Drugs and Substances Act (Canada)* or an offence under provincial or municipal legislation.

14. Materials Ownership:

- 14.1 All documents, electronic records, software, manuals, and other materials produced or used by the Employee in connection with the performance of this Agreement, other than publicly available materials (the "**Materials**"), are the property of the Employer. Upon termination or expiry of this Agreement or upon request of the Employer, the Employee will immediately return all Materials to the Employer. It is expressly prohibited for the Employee to retain copies of Materials in any form without the written consent of the Employer. Any benefits resulting from the development of Materials shall accrue to the benefit of the Employer and, if provided to the Employee, shall be held in trust by the Employee for the Employer.
- 14.2 The Employee will not make for the Employee's own use or for the use of anyone else, copies or reproductions of the Materials. The Employee, or the Employee's estate representative, will return all materials upon termination of the Agreement, however caused.

15. Confidential Information and Trade Secrets:

- 15.1 Any confidential information or trade secrets acquired or created by the Employee in the performance of this Agreement, or any prior employment agreement with the Employer (the "**Confidential Information**") will not be used or disclosed to anyone unless release is specifically approved by the Employer. Confidential Information includes any information whether in writing or not, which is not generally known to the public, and which could, if used, communicated or divulged, cause damage or embarrassment, loss of reputation, or other harm to the Employer. Confidential information shall not be used or disclosed unless specifically approved by the Employer. Any benefits resulting from the development of Confidential Information shall accrue to the benefit of the Employer and, if provided to the Employee, shall be held in trust by the Employee for the Employer.
- 15.2 The duty not to release Confidential Information is in addition to the common law duties of confidentiality and fidelity.

16. Ownership of Intellectual Property:

- 16.1 All rights, title and interest in and to all intellectual property that may be conceived, created or developed during the course of employment of the Employee with the Employer (the "Intellectual Property") will belong solely to the Employer.
- 16.2 The Employee waives all moral rights in any copyright works authorized or coauthored by the Employee in the performance of the Employee's duties and obligations under this Agreement. The Employee will execute a written waiver of moral right in any copyright works authored or coauthored by the Employee immediately upon the request of the Employer.
- 16.3 The Employee will execute such assignment and other documents as are required by the Employer to transfer all right, title and interest in and to all Intellectual Property to the Employer. In the event that the Employee fails to execute such assignment and other documents within ten (10) business days after a written request from the Employer, the Employee hereby appoints the Employer as the Employee's attorney to execute such assignment and other documents on behalf of the Employee.
- 16.4 The Employee will cooperate and render all assistance as may be reasonably requested by the Employer with respect to any applications, filings, or actions in relation to the Intellectual Property, including any applications for letters patent or for copyright or trade-mark registration, and any legal action or potential legal action which relates to the Intellectual Property. The Employer will reimburse the Employee for all reasonable expenses for such cooperation and assistance.

17. Injunctive Relief:

- 17.1 The employee acknowledges the value of the Confidential Information as defined in clause 15, Confidential Information and Trade Secrets, to the Employer. The Employee further acknowledges that any material breach or threatened breach of any of the provisions contained in clause 15 by the Employee may cause material and irreparable harm to the Employer which may not be reasonably or adequately compensated for by damages in an action at law.
- 17.2 The Employee agrees that in the event of a breach or threatened breach of any of the provisions of clause 15, the Employer shall be entitled to an injunction in addition to any other remedies it may be entitled to at law and in equity.

18. Notice of Publication:

- 18.1 The Employee agrees that this Agreement and any records and information created or collected pursuant to the Employee's employment (including, but not limited to, the Employee's name, classification, salary, benefits and employment responsibilities) may be disclosed by the Employer. Decisions about disclosure are in the Employer's sole discretion in accordance with the *Public Sector Compensation Transparency Act* and any other applicable acts, regulations, directives, guidelines and policies.

19. Entire Agreement:

- 19.1 Subject to clause 19.2, this Agreement is the entire Agreement between the parties and replaces any previous agreements or arrangements between the parties. There have been no representations or warranties made by the parties except as contained in this Agreement.
- 19.2 The parties understand and agree that there are other enactments, administrative directives and Orders in Council, which also impose rights, duties and obligations on the parties and which may be amended from time to time without notice to the Employee. In the event of a conflict between this Agreement and enactments, administrative directives

or Orders in Council, the enactments, administrative directives and Orders in Council shall govern.

19.3 Acts, regulations, directives, codes, policies, authorities and guidelines referred to in this Agreement, may be amended, repealed or replaced from time to time without notice to the Employee.

20. Survival of Terms:

20.1 Despite any other provision of this Agreement, those clauses which by their nature continue after the termination or expiry of this Agreement will continue after such termination or expiry, including those clauses pertaining to:

- (a) Termination by Employer;
- (b) No Retirement Benefits; (if Employee has chosen payment in lieu of pension plan participation);
- (c) Materials Ownership;
- (d) Confidential Information and Trade Secrets;
- (e) Ownership of Intellectual Property;
- (f) Injunctive Relief; and
- (g) Notice of Publication.

21. Amendment:

21.1 The parties may agree to make written amendments to the terms of this Agreement.

22. Severability:

22.1 If a term of this Agreement is held to be invalid, illegal or unenforceable, that term is deemed to be severed and the remaining terms of this Agreement continue to operate.

23. Waiver:

23.1 The failure of either party to this Agreement to enforce any of its terms, provisions or covenants will not be construed as a waiver of the same or of the right of such party to enforce the same. Waiver by either party hereto of any breach by the other party of any terms or provisions of this Agreement will not operate as a waiver of any other breach or default.

24. Notices, Approvals and Requests:

24.1 Notices, approvals and requests referred to in this Agreement shall be in writing and, if under clauses 9, Termination During Probation, 10, Discipline and Termination for Just Cause, 11, Termination by Employer, 12, Termination by Employee, and 13, Notice of Charge, shall be personally delivered or sent by recorded mail to the Employer or Employee at the address provided below.

TO THE EMPLOYER

Chief of Staff, Office of the Premier
307 Legislature Building, Edmonton, AB T5K 2B6

TO THE EMPLOYEE AT:



Notices, approvals and requests are deemed to have been served as follows:

- (a) If personally delivered, upon delivery;
- (b) If by registered mail, on the third day after mailing.

24.2 All other notices, approvals and requests under this Agreement that are not referred to in clause 24.1 may be given in accordance with clause 24.1 or by e-mail and are deemed to have been provided 72 hours after the time of sending.

24.3 The contact information for notices, approvals and requests may be changed by notice to the other party.

25. Jurisdiction:

25.1 This Agreement shall be interpreted in accordance with the laws in force in the Province of Alberta. The parties agree to submit to the jurisdiction of the courts of the Province of Alberta.

26. Headings:

26.1 The headings in this Agreement have been included for convenience only and they do not define, limit or enlarge the scope or meaning of this Agreement or any part of it.

27. Singular/Plural:

27.1 In this Agreement, words in the singular include the plural and words in the plural include the singular.

28. Execution:

28.1 This Agreement may be executed in counterparts, and delivered in PDF format by email or fax. A signature delivered by way of email or fax shall be as binding and effective as an original signature.

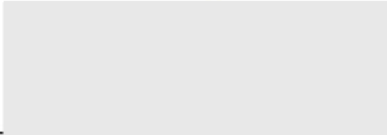
29. Independent Legal Advice:

29.1 The Employee acknowledges and confirms that the Employee has read this Agreement and understands it. The Employee acknowledges that the Employee has had an opportunity to consider this Agreement and obtain independent legal or professional advice before signing it. By executing this Agreement, the Employee confirms that the Employee had the opportunity to seek independent legal or professional advice and has either obtained such advice or has waived the right to obtain such advice.

This Agreement is signed by the parties' representatives and is effective as of the Effective Date.

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA, as represented by the Chief of Staff

Per:

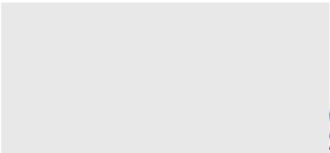


Name: Jamie Huckabay

Title: Chief of Staff, Office of the Premier

Date:

May 16, 2019



CRYSTAL COBIN

Witness signature and print name

Marshall Smith

Date:

May 16/19

Date:

May 16 2019

Schedule B

RETURN SERVICE COMMITMENT AGREEMENT

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA,
AS REPRESENTED BY THE CHIEF OF STAFF, OFFICE OF THE PREMIER
(the "Employer")**

- and -

**MARSHALL SMITH
(the "Employee")**

1. In this agreement,
 - (a) "chief of staff" means the Chief of Staff, Office of the Premier
 - (b) "relocation assistance" means the total amount of money paid to or on behalf of the Employee by the Employer, as shown in paragraph 2,
 - (c) "service period" means 24 months immediately following commencement of the Employee's employment with the Employer.
2. The Employee is eligible for relocation assistance in the maximum amount of Five Thousand Dollars (\$5,000).
3. If the Employee does not remain employed with the Employer until the expiry of the service period, the Employee agrees to repay to the Employer:
 - (a) all or a portion of the relocation assistance, calculated in accordance with the formula in paragraph 4, and
 - (b) interest, from the effective date of termination of employment to the date the relocation assistance is repaid in full.
4. The formula to be used to calculate repayment shall be as follows:

Repayment =
$$\frac{\text{Total amount of relocation assistance}}{522 \text{ work days}} \times \text{Number of work days remaining in the service period}$$
5. Interest payable under clause 3 of this Agreement will be calculated in accordance with the *Charging of Interest on Amounts Owing to the Crown Regulation 235/1988*.
6. A repayment of relocation assistance must be made before the effective date of termination of the Employee's employment, unless the Employee has undertaken to make installment payments in accordance with a payment plan agreed to by the chief of staff.

7. Unless arrangements have been made for instalment payments, if any amount remains unpaid by the Employee on the effective date of termination of his or her employment, the Employer may subtract that amount from any amount that is owing to the Employee by the Employer upon termination.
8. Should the Employee be granted a leave of absence without pay, this agreement shall be automatically extended by the period of the leave and such time shall not be included as service completed by the Employee.
9. The chief of staff may waive any obligation of the Employee under this agreement if the chief of staff considers it appropriate to do so.
10. Either party may propose an amendment to this agreement by giving notice in writing to the other party. If the other party agrees with the amendment, both parties must sign an amending agreement.
11. Notice under clause 9 must be given personally or by email at the following addresses:

To the Employer at:
 Chief of Staff, Office of the Premier
Jamie.huckabay@gov.ab.ca

To the Employee at:
 [Redacted]

If notice is sent by email it is deemed to have been received 72 hours after sending.

This agreement is signed on the 16 day of May, 2019

[Redacted]

 the Crown as represented by the
 Chief of Staff, Office of the Premier

[Redacted]

 Witness

[Redacted]

 Marshall Smith
 Employee

[Redacted]

 Witness