

EMPLOYMENT AGREEMENT

This Employment Agreement (the "**Agreement**") is made effective the 24 day of November, 2022

BETWEEN:

HIS MAJESTY IN RIGHT OF ALBERTA
as represented by the Minister of Justice
(the "**Employer**")

- and -

KATHRYN OVIATT
(the "**Employee**")

WHEREAS:

The Employer has the authority to employ an individual as the Chief of the Commission and Tribunals of the Alberta Human Rights Commission (the "**Commission**");

The Employee is a "designated executive" pursuant to the *Reform of Agencies, Boards and Commissions Compensation Act* ("**RABCCA**"); and

The Employer and the Employee have agreed to enter into a fixed term employment agreement, which replaces any and all previous agreements between the parties.

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Employer and the Employee agree as follows:

1. POSITION AND TERM

- 1.1 The Employer will employ the Employee in the position of Chief of the Commission and Tribunals of the Commission (the "**Position**").
- 1.2 The Employee will report to the Deputy Minister of Justice on behalf of the Minister of Justice (the "**Minister**") or the Minister's alternate designate.
- 1.3 As a condition precedent to this Agreement, and pursuant to sections 15(1) and 15(2) of the *Alberta Human Rights Act*, the Employee will be appointed by the Lieutenant Governor in Council as the Chief of the Commission and Tribunals effective, December 1, 2022 pursuant to Order in Council, which will be attached as Schedule A to this Agreement once issued. If the Employee is not appointed as the Chief of the Commission and Tribunals by the Lieutenant Governor in Council, this agreement is void.

Version: April 2022

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1.4 Employment will start on December 1, 2022 and will continue until the end of the day on November 30, 2027 (the “**Term**”) unless terminated earlier in accordance with this Agreement. This Agreement is for a fixed term and will not be combined with any prior employment agreements between the Employer and the Employee to create a contract of indefinite duration.

2. SECURITY CLEARANCE

2.1 As a condition precedent to this Agreement, the Employee agrees to undertake a security clearance in accordance with the requirements of the Employer and the terms set out in Clause 2.2. If the Employer, in its sole discretion, finds the security screening to be unsatisfactory, this Agreement is void.

2.2 The Employee consents to the disclosure and release of personal information by the Employer for the purposes 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.

3. CONDUCT

3.1 The Employee will perform the duties of the Position as prescribed in the *Alberta Human Rights Act* and all additional duties as directed by the Employer from time to time (collectively, the “**Duties**”). The Employee will perform and discharge the Employee’s Duties in a manner that is in the public interest and consistent with the *Alberta Human Rights Act*.

3.2 The Employee agrees to devote the Employee’s attention and energy 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, undertaking or employment other than employment under this Agreement (“**Concurrent Employment**”) except with the prior written approval of the Ethics Commissioner.

3.3 The Employee will comply with all applicable statutes and regulations, and the directives, guidelines, rules and policies of the Commission and the Employer, as amended or created from time to time, including without limitation the Code of Conduct for the Chief of the Commission and Tribunals, the Director of the Commission and Members of the Commission (forming the Tribunal) established by the Commission.

3.4 The Employee acknowledges that during the Term, the Commission and the Position will be subject to provisions of the *Conflicts of Interest Act*. The Employee will comply with all applicable restrictions and obligations outlined in the *Conflicts of Interest Act* and any related regulations, directives, and guidelines, as amended, 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.

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4. COMPENSATION

- 4.1 The Employee will be paid a full-time annual base salary of \$235,977 in biweekly payments of \$9,041.26 (the “**Base Salary**”) less required deductions and withholdings, payable in accordance with the Employer’s regular payroll services.
- 4.2 The Base Salary is subject to review and adjustment during the Term, in accordance with any policies issued by the Employer, and in a manner that is consistent with RABCCA, the *Reform of Agencies, Boards and Commissions Compensation Regulation* (the “**Regulation**”) and any related directives and guidelines, as amended.

5. NO OTHER RIGHTS OR BENEFITS

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

6. BENEFITS

- 6.1 The Employee is eligible for paid annual vacation leave of thirty (30) days and vacation supplement of five (5) days. With the exception of vacation earning rate, the Employee will be subject to the rules and requirements of the *Public Service Employment Regulation* with respect to vacation leave and supplement. The Employee will accrue annual vacation leave at the rate of 8.33 hours and vacation supplement at the rate of 1.38 hours per bi-weekly pay period in accordance with the Employer’s payroll system. Any accrued vacation entitlement not taken by the Employee at termination or expiry of this Agreement may be paid to the Employee.
- 6.2 The Employee is eligible for the following benefits in accordance with the *Public Service Employment Regulation*:
 - 6.2.1. Paid holidays;
 - 6.2.2. Special leave;
 - 6.2.3. Casual illness;
 - 6.2.4. General illness;
 - 6.2.5. Approved leaves of absence;
 - 6.2.6. Maternity, parental and adoption leave; and
 - 6.2.7. Christmas closure.
- 6.3 The Employee may participate in the 1st *Choice* Benefits Program in accordance with the formal plan documents and applicable policies. All eligibility and coverage issues relating to this plan will be determined by the Administrator of the plan. Neither the Employer nor the Commission will have any liability in respect of eligibility or coverage

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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.

- 6.4 The Employee may participate in the Public Service Long Term Disability Income Continuance Plan in accordance with the formal plan documents and applicable policies. All eligibility and coverage issues relating to this plan will be determined by the administrator of the plan. Neither the Employee nor the Commission will 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*.
- 6.5 The Employee will be provided with a reserved parking stall, which will be treated as a taxable benefit at current market value.

7. RETIREMENT BENEFITS

- 7.1 In lieu of retirement benefits, the Employee will receive a biweekly payment equal to 13.20% of the Base Salary, less required deductions and withholdings, payable in accordance with the Employer's regular payroll services. This amount will be reviewed annually and may change, subject to the Employer contribution rates for the Management Employees Pension Plan, for pay in lieu of pension.

8. VEHICLE ALLOWANCE

- 8.1 The Employer will provide the Employee with a biweekly vehicle allowance in the amount of \$229.88, less required deductions and withholdings, payable in accordance with the Employer's regular payroll services. This allowance is not pensionable.

9. BUSINESS EXPENSES

- 9.1 The Employee may be reimbursed for reasonable expenses incurred while performing the Duties. Reimbursement of expenses will be in accordance with the Treasury Board *Travel, Meal and Hospitality Expenses Directive* (with the exception of section 3(2) of the Directive) and the *Public Service Relocation and Employment Expenses Regulation*, as amended. Such expenses are subject to the Treasury Board *Public Disclosure of Travel and Expenses Directive*, as amended.

10. PROFESSIONAL DEVELOPMENT

- 10.1 The Employee may be eligible, in the sole discretion of the Employer for up to five (5) days of paid leave per year of this Agreement for professional development. Subject to the prior approval of the Deputy Minister, and where appropriate for the nature of the Duties, the Employer will pay on behalf of the Employee or reimburse the Employee for the costs of the following:

10.1.1 The Employee's membership in professional and industry organizations; and

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10.1.2 The Employee's attendance at conferences, seminars or professional development programs.

11. TERMINATION DURING PROBATION

11.1 The first six (6) months of the Term of this appointment and designation to the Position will be a period of probation (the "**Probationary Period**"). During the Probationary Period, the Employer may terminate this Agreement and the Employee's employment under this Agreement without notice or pay in lieu of notice if the Employer, in its sole discretion, considers the Employee to be unsuitable for the Position

12. TERMINATION FOR JUST CAUSE

12.1 The Employer may terminate this Agreement and the Employee's employment under this Agreement for just cause at any time during the Term. For the purposes of this Agreement, just cause includes but is not limited to: theft, fraud, dishonesty, failure to disclose requested information, breach of fiduciary duties, conduct contrary to or in breach of any obligation under Clause 3 (Conduct), Clause 16 (Notice of Criminal Charge), or Clause 19 (Confidential Information), or any matter that would constitute just cause for termination of employment at common law ("**Just Cause**").

12.2 In the event of termination for Just Cause, no notice or pay in lieu of notice will be provided to the Employee.

13. TERMINATION WITHOUT JUST CAUSE

13.1 The Employer may terminate this Agreement and the Employee's employment under this Agreement without Just Cause at any time during the Term. In the event of termination without Just Cause, the Employee will receive twelve (12) weeks notice, if the termination is on or before May 31, 2023. If the termination occurs after May 31, 2023 the Employee is entitled to the greater of twelve (12) weeks notice, or four (4) weeks' written notice for each full year of continuous service, calculated in accordance with section 7 of the Regulation, to a maximum of fifty-two (52) weeks (the "**Notice Period**"). The parties agree that the start date for determining continuous service is December 1, 2022.

13.2 In lieu of notice, the Employer may, in its sole discretion, pay the Employee an amount equal to the Base Salary for the Notice Period or provide a combination of notice and pay in lieu of notice.

13.3 Where the Employer is providing pay in lieu of notice to the Employee, the Employer will pay an additional amount equal to the cost to the Employer for the benefits the Employee was receiving before termination to a maximum of sixteen (16) percent of the amount paid in lieu of notice in accordance with section 7(2)(b) of the Regulation.

13.4 In exchange for pay in lieu of notice, or any combination of notice and pay in lieu of notice, the Employee agrees to sign a release acceptable to the Employer, upon which the Employee will have no further claim against the Employer for termination whether pursuant to contract, common law, statute, regulation or otherwise.

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13.5 The Employee acknowledges and agrees that if, during the Notice Period, the Employee is employed or retained, directly or indirectly, on a fee for service basis by the Crown, a public agency as defined in RABCCA, or an entity where such employment or contractual arrangement is in violation of the *Conflicts of Interest Act*, then the Employee will repay the Employer forthwith at the completion of the Notice Period a portion of the amount paid pursuant to Clauses 13.2 and 13.3 equal to the gross compensation paid by the Crown, public agency, or other entity during the Notice Period, in addition to any fine imposed or restitution ordered under the *Conflicts of Interest Act*.

14. TERMINATION BY EMPLOYEE

14.1 The Employee may terminate the Employee's employment under this Agreement by providing at least eight (8) weeks' written notice to the Employer. If the Employee gives notice in accordance with this Clause, the Employer reserves the right to waive all or part of the notice provided by the Employee, in which case the Employee will be paid the Base Salary during the waived period.

14.2 This Agreement will automatically end on the death of the Employee and no notice or pay in lieu of notice will apply.

15. NEW AGREEMENT

15.1 The Employer will provide the Employee with two (2) weeks' notice prior to the end of the Term regarding its intentions to reappoint the Employee to the Position. In the event the Employee is reappointed to the Position, the Employee will be subject to a new agreement. If no notice is provided, the Agreement is deemed to expire at the end of the Term.

16. NOTICE OF CRIMINAL CHARGE

16.1 The Employee will immediately notify the Employer if the Employee is charged with any offence under the *Criminal Code (Canada)* or the *Controlled Drugs and Substances Act (Canada)*, as amended. In addition, the Employee will immediately notify the Employer if the Employee is charged with any offence under any other federal legislation, provincial legislation or municipal bylaws, if the existence of the charge may adversely affect the reputation of the Employer or the Agency, the conduct of the Agency's programs or services, or the ability of the Employee to perform their Duties.

17. EMPLOYER POLICIES AND PROCEDURES

17.1 The Employee will be subject to the policies and procedures of the Employer and Agency currently in place, or as may be established from time to time, except to the extent of any conflict with the provisions of this Agreement. In the event of a conflict between this Agreement and the policies and procedures of the Employer or Agency, this Agreement will govern.

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18. MATERIALS

- 18.1 All documents, records, manuals, software, and other materials pertaining to or used in connection with the business of the Agency, regardless of form, other than publicly available materials, (the “**Materials**”) that come into the Employee’s possession or control during the Employee’s employment will, at all times, be and remain the property of the Employer.
- 18.2 The Employee will not make copies or reproductions of the Materials for the Employee’s own use, or for the use of a third party. Upon termination or expiry of this Agreement, or upon request of the Employer, the Employee will immediately return all Materials to the Employer.

19. CONFIDENTIAL INFORMATION

- 19.1 Confidential Information includes any information, regardless of form, acquired, developed or produced by the Employee in connection with the performance of the Duties under this Agreement or any prior employment agreement with the Employer, that is not generally known to the public, and which could, if used or disclosed, cause damage, embarrassment, loss of reputation, or other harm to the Employer or Agency (“**Confidential Information**”). The Employee will not use or disclose any Confidential Information unless specifically approved by the Employer or expressly permitted or required by law.
- 19.2 The Employee’s duty not to disclose Confidential Information is in addition to the common law duty of confidentiality.
- 19.3 The Employee’s obligations of confidentiality owed to the Employer will survive the termination or expiry of this Agreement.

20. INJUNCTIVE RELIEF

- 20.1 The Employee acknowledges the value of Confidential Information to the Employer. The Employee further acknowledges that any material breach or threatened breach of any of the provisions contained in Clause 19 by the Employee would cause material and irreparable harm to the Employer that would not be reasonably or adequately compensated for by damages in an action at law.
- 20.2 The Employee agrees that in the event of a breach or threatened breach of any of the provisions of Clause 19, the Employer will be entitled to an injunction, in addition to any other remedies it may be entitled to at law or in equity.

21. INTELLECTUAL PROPERTY

- 21.1 Intellectual property means any work, information, records or materials, regardless of form, and all intellectual property rights therein, including copyright, patents, patent applications, industrial designs and trademarks that are developed, produced or acquired by the Employee in connection with the performance of the Duties (the “**Intellectual Property**”). All rights, title and interest in and to all Intellectual Property will belong solely to the Employer.

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- 21.2 The Employee waives all moral rights in any copyrighted works authored or coauthored by the Employee in the performance of the Duties and the Employee's obligations under this Agreement. The Employee will execute a written waiver of moral rights in any copyrighted works authored or coauthored by the Employee immediately upon the request of the Employer.
- 21.3 The Employee will execute an 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 appoints the Employer as the Employee's attorney to execute such assignment and other documents on behalf of the Employee.
- 21.4 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 trademark registration, and any legal action or potential legal action that relates to the Intellectual Property. The Employer will reimburse the Employee for all reasonable expenses for such cooperation and assistance.

22. NOTICE OF PUBLICATION AND DISCLOSURE

- 22.1 The Employee acknowledges and 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 or the Agency on behalf of the Employer. Decisions about disclosure are in the Employer's sole discretion and are subject to the law and any applicable policies of the Government of Alberta including, but not limited to, the *Public Sector Compensation Transparency Act*, and any related regulations, directives and guidelines, as amended.
- 22.2 The Employee further acknowledges and agrees that the Employer may disclose this Agreement, in its entirety, to the Ethics Commissioner for the purpose of assisting the Ethics Commissioner in carrying out the Ethics Commissioner's duties and functions under the *Conflicts of Interest Act*. The Employee may revoke this consent at any time in writing, in which case the Employer will refrain from disclosure of this Agreement to the Ethics Commissioner in accordance with this clause. This consent and any subsequent revocation of this consent does not apply to personal information made public or otherwise disclosed in accordance with Clause 22.1.

23. ENTIRE AGREEMENT

- 23.1 Subject to Clause 23.2, this Agreement, including any schedules, is the entire agreement between the parties with respect to its subject matter and supersedes all previous agreements, negotiations or arrangements. There are no terms, conditions, commitments, representations or warranties except as contained in this Agreement.
- 23.2 The parties acknowledge and agree that there may be other enactments, administrative directives and Orders in Council that also impose rights, duties and obligations on the parties and that may be amended from time to time without notice to the Employee. In

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the event of a conflict between this Agreement and any enactments, administrative directives or Orders in Council, the enactments, administrative directives and Orders in Council govern. 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.

24. SURVIVAL OF TERMS

24.1 Despite any other provision of this Agreement, those clauses that by their nature continue after the termination or expiry of this Agreement will continue after such termination or expiry, including:

- 24.1.1 Clause 3 Conduct
- 24.1.2 Clause 13 Termination without Just Cause
- 24.1.3 Clause 18 Materials
- 24.1.4 Clause 19 Confidential Information
- 24.1.5 Clause 20 Injunctive Relief
- 24.1.6 Clause 21 Intellectual Property
- 24.1.7 Clause 22 Notice of Publication and Disclosure
- 24.1.8 Clause 26 Severability
- 24.1.9 Clause 27 Waiver

25. AMENDMENT

25.1 The parties may by mutual agreement make written amendments to this Agreement.

26. SEVERABILITY

26.1 If a term or condition of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, that term or condition is deemed to be severed and the remaining terms and conditions of this Agreement continue to operate.

27. WAIVER

27.1 The failure of either party to enforce any provisions in this Agreement will not be construed as a waiver or limitation of that party's right to subsequently enforce or compel strict compliance with every provision of this Agreement. Waiver by either party of any breach by the other party of any terms or conditions of this Agreement will not operate as a waiver of any other breach or default.

28. NOTICES, APPROVALS AND REQUESTS

28.1 Notices, approvals and requests referred to in this Agreement will be in writing and, if under Clauses 11, 12, and 13, will be personally delivered or sent by registered mail to the Employer or Employee at the address provided below:

TO THE EMPLOYER:

Alberta Justice
Office of the Deputy Minister of Justice
9833 109 Street
Edmonton, Alberta T5K 2E8

TO THE EMPLOYEE:

Notices, approvals and requests personally delivered or sent by registered mail are deemed to have been provided upon delivery.

28.2 Notices, approvals and requests other than those listed in Clause 28.1 may be provided in accordance with Clause 28.1 or by email. If provided by email, notices, approvals and requests are deemed to have been provided seventy-two (72) hours after the time of sending.

28.3 The contact information for notices, approvals and requests may be changed by notice to the other party in accordance with Clause 28.2.

29. JURISDICTION

29.1 This Agreement will 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.

30. HEADINGS

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

31. SINGULAR/PLURAL

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

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32. BINDING

32.1 This Agreement will be binding on and will enure to the benefit of the parties and their respective successors, assigns, heirs and legal representatives.

33. INDEPENDENT LEGAL ADVICE

33.1 The Employee acknowledges and agrees that the Employee was advised by the Employer to obtain independent legal or other professional advice. By signing this Agreement, the Employee agrees the Employee had the opportunity to seek independent legal or other professional advice and has either obtained such advice or has waived the right to obtain such advice.

34. COUNTERPARTS

34.1 This Agreement may be executed in counterparts, in which case the counterparts together constitute one agreement, and in which case communication of execution by emailed PDF will constitute delivery.

This Agreement is signed by the parties and is effective as of the date at the beginning of this Agreement.

HIS MAJESTY IN RIGHT OF ALBERTA,
ted by the Minister of Justice

Name

DM

Title

November 28/22

Date

EMPLOYEE

WITNESS

Signature

~~Signature~~

Name

November 24 2022

Date

Name

Nov. 24th 2022

Date