

EMPLOYMENT AGREEMENT

This Employment Agreement (the "**Agreement**") is made effective the 24th day of November 2021

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA
as represented by the Minister of Justice and Solicitor General
(the "**Employer**")

- and -

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

WHEREAS:

The Employer has the authority to employ an individual as Acting 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 Acting Chief of the Commission and Tribunals of the Commission (the "**Position**") on an eighty percent (80%) part-time basis.
- 1.2 The Employee will report to the Minister of Alberta Justice and Solicitor General (the "**Minister**") or the Minister's designate.
- 1.3 As a condition precedent to this Agreement, and pursuant to sections 15(1), 15(2) and 15(3) of the *Alberta Human Rights Act*, the Employee will be appointed by the Lieutenant Governor in Council as a member of the Commission effective November 24, 2021 and designated as the Acting Chief of the Commission and Tribunals effective January 14, 2022 pursuant to Order in Council, which will be attached as Schedule A to this Agreement once issued. The Minister will designate the Employee as Acting Chief of the Commission and Tribunals effective November 30, 2021 until January 13, 2022 pursuant

EMPLOYMENT AGREEMENT – KATHRYN OVIATT

to Ministerial Order, which will be attached as Schedule B to this Agreement once issued. If the Employee is not appointed as a member of the Commission and designated as the Acting Chief of the Commission and Tribunals, by the Minister and the Lieutenant Governor in Council, this Agreement is void.

- 1.4 Employment will start on November 24, 2021 and will continue until the end of the day on July 13, 2022 (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 full 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

EMPLOYMENT AGREEMENT – KATHRYN OVIATT

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.

4. COMPENSATION

- 4.1 The Employee will be paid an annual base salary of \$191,040 in biweekly payments of \$7,319.54 (the “**Base Salary**”) less required deductions and withholdings, payable in accordance with the Employer’s regular payroll services. The Base Salary is prorated to reflect that the Employee is performing the Duties on an eighty percent (80%) part-time basis.
- 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 twelve (12) days and vacation supplement of four (4) 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 entitlement. The Employee will accrue vacation at the rate of 3.333 hours and vacation supplement at the rate of 1.111 hours per bi-weekly pay period in accordance with the Employer’s payroll system.
- 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; and
 - 6.2.6. Christmas closure.
- 6.3 The Employee’s eligibility for the benefits described in Clauses 6.2.1, 6.2.2, 6.2.3, 6.2.4), 6.2.5 and 6.2.6 will be administered in accordance with section 9 (Entitlements for Part Time Salaried Employees) of the *Public Service Employment Regulation*.

EMPLOYMENT AGREEMENT – KATHRYN OVIATT

- 6.4 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 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 is not eligible to participate in the Public Service Long Term Disability Income Continuance Plan.
- 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.

8. VEHICLE ALLOWANCE

- 8.1 The Employer will provide the Employee with a biweekly vehicle allowance in the amount of \$183.90, 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. TERMINATION DURING PROBATION

- 10.1 The first twelve (12) months of the Term of this Agreement 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

11. TERMINATION FOR JUST CAUSE

- 11.1 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 15 (Notice of Criminal

EMPLOYMENT AGREEMENT – KATHRYN OVIATT

Charge), or Clause 18 (Confidential Information), or any matter that would constitute just cause for termination of employment at common law (“**Just Cause**”).

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

12. TERMINATION WITHOUT JUST CAUSE

- 12.1 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 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 November 24, 2021.
- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 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 12.2 and 12.3 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*.

13. TERMINATION BY EMPLOYEE

- 13.1 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.
- 13.2 This Agreement will automatically end on the death of the Employee and no notice or pay in lieu of notice will apply.

14. NEW AGREEMENT

- 14.1 The Employer will provide the Employee with eight (8) 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.

15. NOTICE OF CRIMINAL CHARGE

- 15.1 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 Commission, the conduct of the Commission's programs or services, or the ability of the Employee to perform their Duties.

16. EMPLOYER POLICIES AND PROCEDURES

- 16.1 The Employee will be subject to the policies and procedures of the Employer and Commission 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 Commission, this Agreement will govern.

17. MATERIALS

- 17.1 All documents, records, manuals, software, and other materials pertaining to or used in connection with the business of the Commission, 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.
- 17.2 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.

18. CONFIDENTIAL INFORMATION

- 18.1 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 Commission ("**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.

EMPLOYMENT AGREEMENT – KATHRYN OVIATT

- 18.2 The Employee's duty not to disclose Confidential Information is in addition to the common law duty of confidentiality.
- 18.3 The Employee's obligations of confidentiality owed to the Employer will survive the termination or expiry of this Agreement.

19. INJUNCTIVE RELIEF

- 19.1 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 18 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.
- 19.2 The Employee agrees that in the event of a breach or threatened breach of any of the provisions of Clause 18, the Employer will be entitled to an injunction, in addition to any other remedies it may be entitled to at law or in equity.

20. INTELLECTUAL PROPERTY

- 20.1 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.
- 20.2 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.
- 20.3 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.
- 20.4 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.

21. NOTICE OF PUBLICATION AND DISCLOSURE

- 21.1 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 Commission 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.
- 21.2 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 23.1.

22. ENTIRE AGREEMENT

- 22.1 Subject to Clause 22.2, 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.
- 22.2 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 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.
- 22.3 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.

23. SURVIVAL OF TERMS

- 23.1 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:
- 23.1.1. Clause 3 Conduct
 - 23.1.2. Clause 12 Termination without Just Cause
 - 23.1.3. Clause 17 Materials

23.1.4. Clause 18 Confidential Information

23.1.5. Clause 19 Injunctive Relief

23.1.6. Clause 20 Intellectual Property

23.1.7. Clause 21 Notice of Publication and Disclosure

23.1.8. Clause 25 Severability

23.1.9. Clause 26 Waiver

24. AMENDMENT

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

25. SEVERABILITY

25.1 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.

26. WAIVER

26.1 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.

27. NOTICES, APPROVALS AND REQUESTS

27.1 Notices, approvals and requests referred to in this Agreement will be in writing and, if under Clauses 10, 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:

Justice and Solicitor General
Office of the Minister of Justice and Solicitor General
10800 – 97 Avenue
Edmonton, Alberta T5K 2B6

TO THE EMPLOYEE:

EMPLOYMENT AGREEMENT – KATHRYN OVIATT

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

- 27.2 Notices, approvals and requests other than those listed in Clause 27.1 may be provided in accordance with Clause 27.1 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.
- 27.3 The contact information for notices, approvals and requests may be changed by notice to the other party in accordance with Clause 27.2.

28. JURISDICTION

- 28.1 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.

29. HEADINGS

- 29.1 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.

30. SINGULAR/PLURAL

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

31. BINDING

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

32. INDEPENDENT LEGAL ADVICE

- 32.1 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.

EMPLOYMENT AGREEMENT – KATHRYN OVIATT

33. COUNTERPARTS

33.1 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.

**HER MAJESTY THE QUEEN IN RIGHT
OF ALBERTA**, as represented by the
Minister of Alberta Justice and Solicitor
General

Name

Deputy Minister

Title

Jan 17/22

Date

Name

January 13, 2022

Date

WITNESS

[Signature]

Signature

Name

13 - 01 - 2022

Date