

EMPLOYMENT AGREEMENT

BETWEEN:

MANITOBA GOVERNMENT
represented by the Chief of Staff

(Manitoba)

- and -

Michael Kelly

(Employee)

WHEREAS Manitoba, through Order-in-Council 436/2023 has appointed Employee as the Director of Outreach and Stakeholder Relations, on terms and conditions to be set forth in an employment agreement with Manitoba;

NOW THEREFORE the parties agree:

SECTION 1 - TERM OF AGREEMENT

1.1 The Agreement is deemed to come into effect on December 4, 2023 and shall continue until terminated in accordance with the provisions of the Agreement.

SECTION 2 - APPOINTMENT

2.1 Employee is appointed as member of political staff currently assigned as the Director of Outreach and Stakeholder Relations, effective December 4, 2023, on the terms and conditions set out in the Agreement.

2.2 Employee agrees to exercise and carry out the powers, duties and responsibilities of the Director of Outreach and Stakeholder Relations, (“the Services”).

2.3 Employee shall be considered to be on probation for a six (6) month period from the start date outlined in 2.1 above.

- 2.4 Employee, if rejected from employment during the probationary period, shall be entitled to the greater of (i) two (2) weeks' notice or pay in lieu of notice, or (ii) Employee's minimum entitlements under *The Employment Standards Code*, and the notice or pay in lieu of notice provisions in Section 9 of this Agreement shall not apply.
- 2.5 Employee agrees that Manitoba retains the right to transfer Employee to alternate management or advisory positions during the term of this Agreement.
- 2.6 Employee, if promoted to another position as a result of a transfer in accordance with 2.5, shall be paid a salary commensurate with the new position and shall be placed on probation for a six (6) month period from the date of appointment.
- 2.7 Employee, if rejected during probation referred to in 2.6, shall be returned to a position and salary level comparable to that held prior to the promotion.

SECTION 3 –TERMS AND CONDITIONS OF EMPLOYMENT

- 3.1 The terms and conditions of employment referred to in Part 6 of the Public Service Regulation (the "Regulation"), as amended from time to time, apply to the Employee, including the following provisions of Part 3 of the Regulation (with all references therein to "deputy minister" being replaced with "Chief of Staff"):
- (a) 3.5 and 3.6 (absence due to illness or injury, injury at work);
 - (b) 3.7 (independent medical examination);
 - (c) 3.11 (regular pay);
 - (d) 3.12 to 3.14 (holidays and holiday pay);
 - (e) 3.15 to 3.17 (extra time);
 - (f) 3.18 to 3.20 (vacation leave);
 - (g) 3.22 and 3.23 (sick leave);

- (h) 3.24 and 3.25 (use of sick leave and workers compensation claim and MPI income replacement);
- (i) 3.26 (ill or injured while on vacation leave);
- (j) 3.27 (family-related leave);
- (k) 3.28 to 3.31 (maternity leave – Plan A, Plan B);
- (l) 3.32 (leave – birth of employee’s child);
- (m) 3.33 (adoptive parent leave);
- (n) 3.34 (parental leave);
- (o) 3.35 (compassionate leave);
- (p) 3.37 (benefit plans); Benefits will start on the employee’s start date;
- (q) 3.38 (long-term disability income plan); and
- (r) section 3.43 (civil liability).

3.2 Employee shall work such days and hours as may be reasonably required to fully and properly provide the Services.

3.3 Manitoba shall pay to Employee as remuneration for their services, within the Senior Officer 7 (SF7) classification, a basic annual salary of \$130,198 payable in equal bi-weekly installments of \$4,990.90, at the accepted regular Manitoba Public Service pay periods, pro-rated where necessary for any shorter period.

3.4 Manitoba shall make:

- (a) all deductions required in respect of Income Tax, Canada Pension Plan, Employment Insurance; and

- (b) any other deductions required to be made from payments to Employee, whether in accordance with any applicable laws or statutes, or otherwise; and
 - (c) any deductions requested by Employee and agreed to by Manitoba.
- 3.5 The remuneration to Employee shall be adjusted at such times as salary adjustments are made in the salary range of non-represented employees in the employ of Manitoba.
- 3.6 Employee shall be considered as an employee for purposes of *The Civil Service Superannuation Act*.
- 3.7 Employee may be entitled to an unpaid leave of absence for candidacy in an election in accordance with the provisions of Part 6 of the Regulation, as amended from time to time.

SECTION 4 – CODE OF CONDUCT AND POLICIES

- 4.1 Employee must review and comply with Manitoba’s Code of Conduct applicable to political staff, and all rules, regulations, and policies of Manitoba that govern the conduct of its political staff, as amended from time to time, including without limitation any workforce management policies for:
- (a) A respectful workplace, including policies for addressing and preventing harassment, including sexual harassment and bullying;
 - (b) Employee conflict of interest;
 - (c) Workplace impairment;
 - (d) Reasonable accommodation;

- (e) The use of technology in the workplace, including employee network usage, the use of virtual private network and mobile devices;
 - (f) The use of internet and social media; and
 - (g) Employee conduct in relation to offences under the Criminal Code (Canada), a drug related offences under any other federal law and offences under any other federal or any provincial law.
- 4.2 Employee is subject to restrictions on political activities while employed in the Public Service, in accordance with the provisions of Part 6 of the Regulation, as amended from time to time.
- 4.3 Employee shall act at all times in accordance with the Oath or Affirmation of Office, sworn or affirmed by the Employee upon appointment.

SECTION 5 – CONFIDENTIALITY

- 5.1 Employee will receive or have access to confidential information in the course of providing the Services. While the Agreement is in effect and at all times thereafter, Employee shall:
- (a) treat and retain as strictly confidential all information, data, research, documents and materials acquired, discovered, produced, or to which access has been given, in the course of, or incidental to, the performance of the Agreement;
 - (b) use the information, data, research, documents and materials referred to in section 5.1(a) solely for the purpose of providing the Services, and for no other purpose;
 - (c) not disclose, or authorize or permit to be disclosed, to any person, corporation, organization or entity, any information, data, research,

documents or materials referred to in section 5.1(a), except where disclosure is:

- (i) necessary to provide the Services;
 - (ii) authorized or required by legislation; or
 - (iii) required by an order of a court, person or body with jurisdiction to compel production of the information, data, research, documents or materials or is required by a rule of court that relates to the production of the information; and
- (d) comply with all policies, rules and directions made or given by Manitoba with respect to safeguarding or ensuring the confidentiality of any information, data, research, documents and materials referred to in section 5.1(a).

5.2 Employee will also receive or have access to personal information and personal health information, as those terms are defined in The Freedom of Information and Protection of Privacy Act (C.C.S.M. c. F175) and The Personal Health Information Act (C.C.S.M. c. P33.5), in the course of providing the Services. With respect to the information, while the Agreement is in effect and at all times thereafter, Employee shall:

- (a) comply with the fair information practices reflected in, and with the provisions of, The Freedom of Information and Protection of Privacy Act and The Personal Health Information Act and the regulations under these Acts, as amended or replaced from time to time;
- (b) without limiting section 5.2(a), execute and comply with the Pledge of Confidentiality required under *The Personal Health Information Regulation*

(Man. Reg. 245/97, as amended or replaced), on any form that may be specified by Manitoba for the purpose;

- (c) comply with all policies, rules and directions of Manitoba, with respect to safeguarding or ensuring that personal information and personal health information is collected, used, disclosed, protected, retained and destroyed in accordance with the provisions of *The Freedom of Information and Protection of Privacy Act*, *The Personal Health Information Act* and the regulations under these Acts (as amended or replaced from time to time).

5.3 As a condition precedent to employment, Employee agrees and consents to the disclosure and release of personal information necessary for the purpose of Manitoba conducting a high level enhanced security clearance, which includes a Criminal Record Check and Adult and Child Abuse Registry Checks, to determine Employee's suitability for employment. Employee will take all necessary steps to effect these checks when requested not later than 3 weeks after the commencement of this employment agreement. This Agreement may be voided if Manitoba finds the Criminal Records Check, Adult and Child Abuse Registry Checks to be unsatisfactory.

SECTION 6 - CONFLICT OF INTEREST AND OTHER RULES OR REGULATIONS

6.1 Prior to executing the Agreement, Employee shall make a declaration to Manitoba as to any actual or potential conflict of interest as required by the Conflict of Interest policies and legislation of Manitoba.

6.2 Employee shall provide the Services and perform the duties under the Agreement in accordance with applicable legislation and the principles and intent of the Conflict of Interest policy.

6.3 Employee is not permitted to engage in outside professional and business interests except with the written approval of Manitoba or designate. Manitoba or designate shall not grant approval unless Employee, once in each year or sooner as circumstances warrant, makes full disclosure of the nature of the interests and confirms, in writing, that the outside interests do not impede Employee's ability to perform the Services, are performed in Employee's personal time and without use of government offices or equipment, do not directly or indirectly relate to the Services and do not lead to a contravention of conflict of interest legislation, policies or guidelines or of any other provision of the Agreement.

SECTION 7 – OWNERSHIP OF INFORMATION, ETC.

7.1 All information, data, research, documents and materials acquired, discovered or produced by Employee in the performance of the Agreement (the "Employee Developments", shall be the exclusive property of Manitoba (including all intellectual property rights), and shall be delivered without cost to Manitoba upon request.

7.2 Employee agrees to assign and hereby assign to Manitoba any right, title and interest worldwide Employee may have or may in the future acquire in and to the Employee Developments and all Intellectual Property relating thereto, without any remuneration. Employee agrees, at the request of Manitoba, to do all lawful acts to secure and protect Manitoba's rights and interests in the Employee Developments and all Intellectual Property relating thereto. Employee agrees, when requested by Manitoba, regardless of whether Employee is still employed by Manitoba pursuant to this Agreement, to execute, acknowledge and deliver Manitoba, without additional compensation but without expense to Employee, any and all instruments, assignments, waivers and documents. Employee shall make full disclosure to Manitoba of all Employee Developments and all Intellectual Property relating thereto.

7.3 Employee waives any rights which Employee may have in the Employee Developments and all Intellectual Property relating thereto, including moral rights in the Employee Developments and all Intellectual Property relating thereto. Employee agrees to enforce the moral rights as against others as directed by and at the cost of the Manitoba of the Employee Developments and all Intellectual Property relating thereto.

7.4 Employee covenants not to take any steps or make any claims, whether alone or in concert with others, directly or indirectly, which could have the effect of challenging the rights of Manitoba set forth in this Agreement.

SECTION 8 – EXPENSES

8.1 Employee shall be reimbursed for all reasonable traveling and other expenses actually and properly incurred by them in connection with their duties hereunder in accordance with the provisions of Manitoba's policies and procedures on claiming such expenses.

SECTION 9 – TERMINATION

9.1 The Agreement and Employee's employment may be terminated in the following manner:

(a) by agreement of the parties;

(b) at any time by Employee, without cause, by giving to Manitoba four (4) weeks' notice in writing, in which case Manitoba may, at its option, terminate Employee's employment and provide pay in lieu equal to the balance of the resignation notice period;

(c) at any time by Manitoba:

(i) without cause

(A) by giving to Employee written notice for a period calculated on the basis of six (6) weeks' notice and in addition a period of notice equivalent to four (4) weeks for each year of continuous service based on Employee's most recent date of appointment as recognized by Manitoba with the proviso that the sum of such notice periods shall be for a period of not more than fifty-two (52) weeks in total, or

(B) in lieu of giving written notice, paying to Employee a sum equivalent to six (6) weeks' pay and in addition a sum equivalent to four (4) weeks' pay for each year of continuous service based on Employee's most recent date of appointment as recognized by Manitoba with the proviso that the sum of such payments shall not exceed fifty-two (52) weeks in total; or

(C) a combination of (A) and (B) above, at the sole discretion of Manitoba.

(ii) Immediately and without notice, for just cause.

9.2 The parties acknowledge and agree that the above notice periods or payments in lieu are reasonable.

9.3 Upon termination of the Agreement for any reason, Manitoba shall be under no obligation to make any further payments to Employee, other than such accrued but outstanding payments as Employee may be entitled to receive under the Agreement for Services provided to Manitoba, and if applicable, under section

9.1(c)(i)(B). Manitoba's obligations described in this Article 9 are in full satisfaction of all notice of termination, pay in lieu of notice, severance pay, damages, or any other payments under applicable employment standards legislation, contract and the common law. For greater certainty, Employee waives any claim to common law notice or pay in lieu thereof.

SECTION 10 – GENERAL PROVISIONS

- 10.1 The parties may amend any provision of the Agreement at any time by agreement in writing.
- 10.2 The Agreement shall be construed, performed and enforced in accordance with the laws of the Province of Manitoba. Any action taken relating to the Agreement shall be commenced in the Court of King's Bench, Winnipeg.
- 10.3 The parties shall not assign or transfer the Agreement, or any of the rights, responsibilities or obligations under the Agreement.
- 10.4 The document contains the entire agreement between the parties. There are no undertakings, representations or promises, express or implied, other than those contained in the Agreement. The Agreement shall supersede and replace any other employment agreement between Manitoba and Employee.
- 10.5 The Agreement shall inure to the benefit of, and be binding upon, Manitoba and the heirs, executors and administrators of Employee.
- 10.6 The invalidity of any provision of this Agreement or any covenant contained or incorporated by reference on the part of any party shall not affect the validity of any other provision or covenant herein.
- 10.7 Employee agrees that this Agreement and any records and information created or

collected pursuant to the Employee's employment (including but not limited to Employee's name, classification, salary, benefits or employment responsibilities) may be disclosed by Manitoba. Decisions about disclosure are at Manitoba's sole discretion.

SECTION 11 - NOTICES

11.1 Any notice given under the Agreement shall be in writing and delivered or sent by courier, facsimile transmission, registered mail, or e-mail to the respective addresses set out below or to such other address as one party may notify the other party in writing:

(a) **If to Manitoba:**

Chief of Staff
212 - 450 Broadway
Winnipeg MB R3C 0V8

(b) **If to Employee:**

Michael Kelly

11.2 Any notice or communication sent by registered mail shall be deemed to have been received on the third business day following the date of mailing. Any notice or communication sent by way of facsimile transmission shall be deemed to have been received on the day it was transmitted, but only if the sender has a facsimile transmission report generated by the sender's facsimile machine which confirms that the notice or communication was transmitted in its entirety. Any notice or communication sent by way of e-mail shall be deemed to have been received on the day it was delivered, but only if the sender receives confirmation of delivery. If mail service is disrupted by labour controversy, notice shall be delivered personally or by way of facsimile transmission or e-mail.

IN WITNESS WHEREOF the parties have executed the Agreement on the dates noted below.

MANITOBA GOVERNMENT

“Original signed by”

January 15, 2024

Michael Kelly

Date