

## INDEMNIFICATION AGREEMENT

**THIS AGREEMENT** is made as of the \_\_\_\_ day of \_\_\_\_\_, 202 ,

B E T W E E N:

**HUMAN RESOURCES PROFESSIONALS ASSOCIATION,**  
a not-for-profit corporation without share capital  
incorporated under the *Corporations Act* (Ontario)

(the "**HRPA**")

and

\_\_\_\_\_  
of the City of \_\_\_\_\_  
in the Province of Ontario

(the "**Indemnitee**")

**WHEREAS** the Indemnitee is an existing director and/or officer of the HRPA, or the HRPA expects the Indemnitee to join it as a director and/or officer;

**AND WHEREAS** as a condition of the Indemnitee agreeing to act or continue to act as a director and/or officer of the HRPA (the "**Indemnified Capacity**"), the Indemnitee has requested, and the HRPA has agreed, that the HRPA will indemnify the Indemnitee to the fullest extent permitted by law against certain liabilities that the Indemnitee may incur in connection with the Indemnitee's acting or continuing to act in an Indemnified Capacity;

**NOW THEREFORE** for good and valuable consideration, the parties agree as follows:

### SECTION 1 - INTERPRETATION

**1.1 Definitions.** As used herein, the following terms shall have the following meanings:

"**Act**" means the *Registered Human Resources Professionals Act, 2013*, as amended from time to time;

"**Agreement**" means this Indemnification Agreement, as amended or supplemented from time to time;

"**Court**" means the Ontario Superior Court of Justice;

"**Derivative Action**" has the meaning ascribed thereto in Section 3; and

"**Regulations**" means regulations made pursuant to the Act, as amended from time to time.

1.2 **Rules of Interpretation.** The following rules of interpretation apply to this Agreement:

- (a) the singular includes the plural, and vice versa;
- (b) “including” means “including without limitation”;
- (c) a gender includes all genders;
- (d) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) the headings contained in this Agreement are for convenience of reference only and do not modify or affect in any way the meaning or interpretation of this Agreement; and
- (f) time is of the essence of this Agreement.

## **SECTION 2 – INDEMNIFICATION**

**2.1 Indemnity.** The HRP A shall indemnify and save harmless the Indemnatee (which term includes the Indemnatee’s heirs and legal personal representatives), to the fullest extent permitted by law, against all liability, loss, harm, damage, cost or expense, including legal fees and expenses and amounts paid to settle a claim or action or satisfy a judgment or fine, reasonably incurred by the Indemnatee in respect of any threatened, pending, ongoing or completed claim or civil, criminal, administrative, investigative or other action or proceeding, formal or informal, made or commenced against the Indemnatee or in which the Indemnatee is or was involved by reason of acting in an Indemnified Capacity. Notwithstanding the foregoing, the HRP A will not indemnify the Indemnatee in respect of an action by or on behalf of the HRP A against the Indemnatee unless a Court so orders.

**2.2 Tax Gross-Up.** If the Indemnatee is required by law to pay any tax on account of the receipt by the Indemnatee of any amount under this Agreement, the HRP A shall increase the amount payable to the Indemnatee so that the amount received by the Indemnatee, after the deduction of all applicable taxes, is equal to the amount that the Indemnatee would have received under this Agreement had such tax not been payable. The Indemnatee agrees to take all reasonable steps to minimize the amount of such taxes.

### **2.3 Limitation**

(1) **Limitation.** The HRP A shall not be obligated to indemnify the Indemnatee under Section 2.1 unless:

- (a) the Indemnatee acted honestly and in good faith with a view to the best interests of the HRP A; and
- (b) in the case of a criminal or administrative action or proceeding, the Indemnatee had reasonable grounds for believing that the Indemnatee’s conduct was lawful.

## **2.4 Payment**

(1) **Payment of Indemnity Claim.** Within 10 days after receipt by it of a claim for indemnification under Section 2.1 accompanied by reasonable evidence of the amount of the claim, the HRP A shall pay or cause to be paid to the Indemnitee the amount of the claim unless the claim relates to a Derivative Action, in which case the provisions of Section 3 will apply. To the extent that the Indemnitee receives indemnification or reimbursement in respect of all or any part of a claimed amount from a source other than the HRP A, the Indemnitee will forthwith notify the HRP A and pay such amounts to the HRP A to the extent that the Indemnitee has received indemnification or reimbursement for same from the HRP A.

(2) **Notice of Dispute.** If the HRP A believes that the Indemnitee is not entitled to indemnification under Section 2.1, the HRP A shall so advise the Indemnitee in writing within the 10-day period referred to in Section 2.4(1).

**2.5 Determination of Right of Indemnification.** If the HRP A contests the Indemnitee's right to indemnification under Section 2.1, the determination of the Indemnitee's right to indemnification shall be made by the Court and:

- (a) the burden of proving that the Indemnitee did not meet the standards set out in Section 2.3 shall be on the HRP A; and
- (b) neither a determination by the HRP A that the Indemnitee is not entitled, nor any failure of the HRP A to determine that the Indemnitee is entitled, to indemnification because the Indemnitee did not meet the standards set out in Section 2.3 shall create a presumption that the Indemnitee did or did not meet such standards.

**2.6 Scope; Change in Applicable Law.** The intention of this Agreement is to provide the Indemnitee indemnification to the fullest extent permitted by law, and the HRP A hereby agrees to indemnify the Indemnitee to the fullest extent permitted by applicable law. In the event that the Act or the Regulations are amended to permit a broader scope of indemnification, this Agreement shall be deemed to be amended concurrently with the amendment to the Act or the Regulations, as the case may be, so as to increase the scope of the indemnity provided to the Indemnitee under this Agreement.

### SECTION 3 – DERIVATIVE ACTION

**3.1 Derivative Action.** If the HRPAs or a third party on behalf of the HRPAs commences an action to procure a judgment in favour of the HRPAs (a “**Derivative Action**”) to which the Indemnitee is made a party by reason of the Indemnitee’s association with the HRPAs, the HRPAs shall, at the Indemnitee’s request, make application to the Court for approval of the Court to indemnify the Indemnitee under Section 2 and to advance monies to the Indemnitee under Section 3.

### SECTION 4 – INDEMNIFICATION PROCEDURE

#### 4.1 Notice to HRPAs

(1) **Giving Notice.** The Indemnitee shall give notice to the HRPAs as soon as is practicable, and in any event not later than 10 days after the Indemnitee receives notice of any claim against the Indemnitee of any action or proceeding involving the Indemnitee that may give rise to a claim for indemnification under this Agreement. A copy of any documents which have been served upon the Indemnitee shall accompany such notice or, where this is not feasible, be delivered to the HRPAs as soon as is practicable thereafter.

(2) **Failure or Delay in Giving Notice.** The failure or delay of the Indemnitee to give notice to the HRPAs in accordance with Section 4.1(1) shall not relieve the HRPAs of its obligations to the Indemnitee under this Agreement unless, and then only to the extent that, the HRPAs is materially damaged or prejudiced as a result of such failure or delay.

#### 4.2 Control of Claim, Action or Proceeding

(1) **Assumption of Control by HRPAs.** The HRPAs shall have the right, at its own expense, to assume control of any claim against the Indemnitee or any action or proceeding involving the Indemnitee, including employing legal counsel reasonably satisfactory to the Indemnitee, by giving notice to the Indemnitee of its intention to do so.

(2) **Cooperation.** If the HRPAs exercises its right under Section 4.2(1), the Indemnitee shall cooperate with the HRPAs and make available to it all information under the Indemnitee’s control that is relevant to the claim, action or proceeding, and the HRPAs shall keep the Indemnitee informed on an ongoing basis of the progress of the claim, action or proceeding. If the HRPAs does not exercise its right under Section 4.2(1), the HRPAs shall cooperate with the Indemnitee and make available to the Indemnitee all information under its control that is relevant to the claim, action or proceeding and the Indemnitee shall keep the HRPAs informed on an ongoing basis of the progress of the claim, action or proceeding.

(3) **Indemnatee Retaining own Counsel.** If the HRPAs exercises its right under Section 4.2(1), the Indemnatee may:

- (a) at the Indemnatee's own expense, employ legal counsel of the Indemnatee's choosing to participate in any claim, action or proceeding in addition to legal counsel employed by the HRPAs; and
- (b) at the expense of the HRPAs, employ legal counsel of the Indemnatee's own choosing to participate in any claim, action or proceeding in addition to legal counsel employed by the HRPAs if:
  - (i) the employment of such legal counsel has been approved in writing by the HRPAs;
  - (ii) the Indemnatee has received written legal advice (shared with the HRPAs) that there may be a conflict of interest between the HRPAs and the Indemnatee in respect of the claim, action or proceeding; or
  - (iii) the Indemnatee has reasonably concluded that the HRPAs has not assumed control of, or is not diligently dealing with, the claim, action or proceeding.

If the Indemnatee employs legal counsel of the Indemnatee's own choosing, the HRPAs and its legal counsel shall, to the extent practicable in the circumstances, cooperate with the Indemnatee and the Indemnatee's legal counsel in dealing with the claim, action or proceeding, including making documents, witnesses and other information relating to the claim, action or proceeding available to the Indemnatee and the Indemnatee's legal counsel.

(4) **Settlement.** Whether or not the HRPAs exercises its right under Section 4.2(1), the Indemnatee shall not enter into any settlement, or consent to the entry of any judgment with respect to the claim, action or proceeding without the prior written consent of the HRPAs, which consent shall not be unreasonably withheld or delayed.

If the HRPAs exercises its right under Section 4.2(1), the HRPAs shall not enter into any settlement, or consent to the entry of any judgment with respect to the claim, action or proceeding that would impose any penalty, financial obligation or limitation on the Indemnatee, other than a monetary obligation for which the Indemnatee is fully indemnified under this Agreement, or will involve a determination of fault on the part of the Indemnatee, without the prior written consent of the Indemnatee, which consent shall not be unreasonably withheld or delayed.

**SECTION 5 - EXCEPTIONS TO INDEMNITY AND ADVANCES**

**5.1 Exceptions.** The obligation of the HRP A to indemnify the Indemnatee pursuant to Section 2.1 and to make advances pursuant to Section 2.4(1) shall not apply in respect of any proceeding initiated by the Indemnatee:

- (a) against the HRP A, unless it is brought to establish or enforce any right under this Agreement.
- (b) against any other director or officer of the HRP A, unless the HRP A has joined in or consented to the initiation of such proceeding; or
- (c) against any other entity or person, unless it is a counterclaim, crossclaim, third party claim or claim to recover contribution or indemnity in connection with a claim or proceeding that may give rise to a claim for indemnification by the Indemnatee under this Agreement.

**SECTION 6 - GENERAL**

**6.1 Effective Date.** This Agreement shall be deemed to have effect as and from the first date that the Indemnatee became a director or officer of the HRP A, and shall apply to all actions and proceedings, whether such action or proceeding is in respect of facts arising before or subsequent to the effective date of this Agreement.

**6.2 Compliance with the Act.** To the extent that the terms of this Agreement are contrary to the provisions of the Act or the Regulations, or other applicable laws, the terms of this Agreement shall be deemed to be amended to comply therewith (it being understood that nothing contained herein shall be considered to impose an obligation upon the HRP A which it is prohibited from complying with by virtue of such legislation).

**6.3 Notice.** All notices or other communications required or permitted by this Agreement shall be effective upon receipt and shall be in writing and shall be delivered personally or by courier or sent by email addressed as follows:

- (a) in the case of the HRP A:

Human Resources Professionals Association  
150 Bloor Street West, Suite 200  
Toronto ON M5S 2X9  
**Attention: Board Governance**  
E-mail: [governance@hrpa.ca](mailto:governance@hrpa.ca)

- (b) in the case of the Indemnatee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**6.4 Continuation of Indemnity and Access.** The indemnification provided to the Indemnitee under this Agreement shall continue after the Indemnitee ceases to serve in an Indemnified Capacity. The Indemnitee and the Indemnitee's advisors may review during regular business hours all documents, records and other information with respect to the HRPAs which are under the HRPAs's control and which may be reasonably necessary in order for the Indemnitee to defend himself against any claim, action, investigation or proceeding that relates to, arises from or is based on the Indemnitee acting in an Indemnified Capacity, provided that the Indemnitee and the Indemnitee's advisors shall maintain all such information in strictest confidence except to the extent necessary for the Indemnitee's defence in any such claim, action, investigation or proceeding.

**6.5 Independent Legal Advice.** The Indemnitee acknowledges that the Indemnitee has had sufficient opportunity to seek, and was not prevented nor discouraged from seeking, independent legal advice prior to the execution and delivery of this Agreement and that, in the event that the Indemnitee did not avail himself of that opportunity prior to signing this Agreement, the Indemnitee did so voluntarily without any undue pressure from the HRPAs.

**6.6 Amendment and Waiver.** This Agreement may not be amended except by a written agreement signed by the parties hereto. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provisions of this Agreement or constitute a continuing waiver. Any waiver of any of the provisions of this Agreement must be in writing and signed by the HRPAs or the Indemnitee, as applicable. A party's failure to enforce any of the provisions of this Agreement shall not constitute a waiver of such provision or prevent the party from thereafter enforcing such provision or any of the other provisions of the Agreement.

**6.7 Binding Effect.** This Agreement shall be binding upon the HRPAs and its successors and assigns and enure to the benefit of the Indemnitee and the Indemnitee's heirs, executors, successors and personal representatives.

**6.8 Severability.** The invalidity or unenforceability of any part of this Agreement shall not affect the validity or enforceability of any other part of this Agreement.

**6.9 Not Exhaustive.** This Agreement shall not operate to abridge or exclude any other rights to which the Indemnitee may be entitled in connection with the Indemnitee acting in an Indemnified Capacity, at law or in equity, under the Act, the Regulations, or the letters patent or by-laws of the HRPAs.

**6.10 Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein without giving effect to any choice of law or conflicting provision or rule that would cause the laws of any jurisdiction to be applied other than the laws of the Province of Ontario and the laws of Canada applicable therein.

**6.11 Consent to Jurisdiction.** All actions and proceedings arising in any manner out of or in connection with this Agreement or to interpret the provisions of this Agreement shall be brought only in the courts of the Province of Ontario. Each of the HRPA and the Indemnatee irrevocably:

- (a) consents and submits to the jurisdiction of the courts of the Province of Ontario for the purposes of any such action or proceeding;
- (b) waives any objection that it may have, now or hereafter, to having any such action or proceeding take place in the courts of the Province of Ontario; and
- (c) waives any claim that the courts of the Province of Ontario are not a convenient forum for any such action or proceeding.

**6.12 Counterparts, Facsimile and Electronic Signatures.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original. This Agreement may be transmitted by facsimile or electronically, and it is the intent of the parties that the facsimile or electronic copy of any signature shall be considered an original signature and shall have the same force and effect as an original signature.

The parties have executed this Agreement as of the date first written above.

**Human Resources Professionals Association**

by:

\_\_\_\_\_  
Name:

Title:

**INDEMNITEE**

\_\_\_\_\_  
Name:

Title: