

Nursing Graduate Guarantee

Agreement No. NGG-08-<IFIS Number>

THIS AGREEMENT entered into on the date it is signed on behalf of the Ministry

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
as represented by the Minister of Health and Long-Term Care

(the “**Ministry**”)

- and -

<OE Legal Name>

(the “**Employer**”)

WHEREAS the Ministry has established the Program to promote full-time employment for New Graduate Nurses;

WHEREAS the Employer has applied to the Ministry for Funding to support New Graduate Nurses participating in the Program;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Definitions.** In the Agreement, the following words shall have the following meanings:

“**Agreement**” means this Agreement entered into between the Ministry and the Employer and all schedules and attachments to this Agreement and any instrument amending this Agreement;

“Applicable Law” means any law, by-law, rule, statute, regulation, order, judgement, decree, treaty or other requirement having the force of law relating or applicable to the Program;

“Budget” means the budget attached to the Agreement as Schedule “B”;

“Confirmation Letter” means the form issued by the Ministry through the Online Nursing Graduate Portal at www.hfojobs.ca;

“Effective Date” means the date, on or after January 1, 2008, on which the Employer and first New Graduate Nurse with whom the Employer Matches, Match;

“Examination” means the Canadian Registered Nurse Examination or Canadian Practical Nurse Registration Examination as applicable, or such other examination as may be required by the College of Nurses of Ontario from time to time; and **“Examinations”** shall have the corresponding meaning;

“Funding Year” means:

- (a) in the case of the first Funding Year, the period commencing on the Effective Date and ending on March 31, 2009; and
- (b) in the case of Funding Years subsequent to the first Funding Year, the period commencing on the date that is April 1 following the end of the previous Funding Year and ending on the following March 31;

“Funds” means the funds provided to the Employer by the Ministry pursuant to the Agreement; **“Funded”** and **“Funding”** shall have the corresponding meaning;

“Guidelines” means the guidelines provided in Schedule “A”;

“Indemnified Parties” means her Majesty the Queen in Right of Ontario, her Ministers, appointees and employees;

“Match” means when an Employer and a New Graduate Nurse complete the recruitment and hiring process, as described in the Guidelines, through the Online Nursing Graduate Portal; and **“Matches”** shall have the corresponding meaning;

“New Graduate Nurse” means a person who has graduated from an Ontario accredited nursing program on or after January 1, 2008 ; and the plural **“New Graduate Nurses”** shall have the corresponding meaning;

“Notice” means a notice as described in Article 15;

“Nurse” means a member in good standing of the College of Nurses of Ontario who practices nursing pursuant to the *Nursing Act*, S.O. 1991, C. 32; and the plural **“Nurses”** shall have the corresponding meaning;

“Online Nursing Graduate Portal” means the site located at www.hfojobs.ca relating to the Nursing Graduate Guarantee;

“Other Nursing Initiatives” means the initiatives described in the Guidelines;

“Party” means the Ministry or the Employer; and the plural **“Parties”** shall have the corresponding meaning;

“Person” is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, a joint venture, an unincorporated or incorporated organization, an unincorporated or incorporated association, the government of a country or any political subdivision thereof, or any agency or department of any such government, the WSIB, and the executors, administrators or other legal representatives of an individual in any capacity;

“Personal Information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 c. F 34, as may be amended;

“Personal Health Information” means personal health information as defined in the *Personal Health Information Protection Act*, S.O. 2004, c.3. Schedule A, as may be amended;

“Program” means the program known as the Nursing Graduate Guarantee, as described in Section 4.1;

“Reports” means the Reports referred to in Section 9.1;

“Supernumerary Position” means a newly created temporary full-time position that is above the current complement of nursing positions funded by the Province of Ontario;

“Temporary Registration” means a temporary certificate of registration as described in Section 9 of Ontario Regulation 275/94 made under the *Nursing Act*, S.O. 1991, c. 32.

**ARTICLE 2
REPRESENTATIONS, WARRANTIES, COVENANTS AND GOVERNANCE**

- 2.1 **Representations, Warranties, Covenants and Governance.** The Employer represents, warrants and covenants that:
- (a) it employs Nurses;
 - (b) it has the infrastructure support necessary to employ such number of New Graduate Nurses for which it requests funding, which kind of support is more particularly described in the Guidelines;
 - (c) it has the full power and authority to enter into the Agreement and to carry out its obligations under the Agreement, and has taken all necessary action to authorize the execution, delivery and performance of its obligations under the Agreement;
 - (d) it has established, and shall maintain for the period during which the Agreement is in effect, by-laws or other legally appropriate instruments to:
 - (i) establish decision-making mechanisms;
 - (ii) provide for the prudent and effective management of the Funds; and
 - (iii) establish procedures to enable the preparation and delivery of all Reports required pursuant to Article 9; and
 - (e) it has obtained, and shall maintain for the period when the Agreement is in effect, all insurance required pursuant to the Agreement.

**ARTICLE 3
TERM**

- 3.1 **Term of the Agreement.** The term of the Agreement shall commence on the Effective Date and shall expire on termination pursuant to either Article 14 or 15.

**ARTICLE 4
PROGRAM**

- 4.1 **Program.** The Employer shall:

- (a) register on HFOJobs (accessible at the following URL: www.hfojobs.ca) to access the Online Nursing Graduate Portal to recruit and hire New Graduate Nurses into such number of Supernumerary Positions that it has;
- (b) before Matching with a New Graduate Nurse, ensure that the New Graduate Nurse received or will receive her or his final grades from the Ontario accredited nursing program in which the New Graduate Nurse was enrolled, no earlier than 6 months prior to the date on which the Employer anticipates starting the New Graduate Nurse's employment;
- (c) only Match with a New Graduate Nurse if the Employer expects to be able to transition the New Graduate Nurse from a Supernumerary Position to either a new or existing permanent full-time position;
- (d) when the Employer Matches with a New Graduate Nurse, notify the Ministry using the Confirmation Letter, including providing a brief plan of how the Employer anticipates moving the New Graduate Nurse into a permanent full-time position;
- (e) before starting the New Graduate Nurse's employment, ensure that the New Graduate Nurse obtains Temporary Registration;
- (f) within the first 12 weeks of the New Graduate Nurse's employment, provide the New Graduate Nurse with an extended orientation that meets the requirements set out in the Guidelines;
- (g) use best efforts to place the New Graduate Nurse in a permanent full-time position after the New Graduate Nurse has worked with the Employer for at least 12 weeks;
- (h) if the Employer has not placed the New Graduate Nurse in a permanent full-time position, using its own resources, extend the Supernumerary Position for the New Graduate Nurse for a further 6 week period, at minimum, at the same rate at which the Ministry Funded the New Graduate Nurse;
- (i) suspend the New Graduate Nurse's employment with the Employer, including funding, if the New Graduate Nurse does not pass his or her first attempt at the Examination, such suspension to continue until the New Graduate Nurse either passes his or her Examination or his or her employment is terminated in accordance with clause 4.1(j) of this Agreement;

- (j) terminate the New Graduate Nurse's employment with the Employer if the New Graduate Nurse does not pass his or her third attempt at the Examination;
- (k) notify the Ministry in writing when a Nurse ceases to work for the Employer or when the Employer hires the New Graduate Nurse into a permanent full-time position;
- (l) carry out the Program in accordance with the Agreement and in compliance with Applicable Law; and
- (m) not make any changes to the Program without the prior written consent of the Ministry.

4.2 **Termination of Employment.** Despite anything in the Agreement to the contrary, the Employer may terminate the New Graduate Nurse's employment if the Employer, acting reasonably and using professional judgment, considers the New Graduate Nurse to be unsuitable in the Supernumerary Position.

ARTICLE 5 FUNDS

5.1 **Budget Preparation.** When the Employer provides a Confirmation Letter for a New Graduate Nurse or New Graduate Nurses to the Ministry, the Ministry shall prepare a budget (or a revised budget if the Employer has already hired a New Graduate Nurse for which the Ministry has issued a budget), that provides for the remuneration and benefits for the New Graduate Nurse or New Graduate Nurses identified in the Confirmation Letter, and the budget shall be deemed:

- (a) to be the Budget in respect of all the New Graduate Nurses retained by the Employer to date for which the Ministry has received a Confirmation Letter;
- (b) to replace any prior Budget; and
- (c) to form Schedule "B" to the Agreement.

5.2 **Funding Calculated.** The Ministry shall calculate Funding for each New Graduate Nurse on the following basis:

- (a) according to the specialty and organizational starting hourly rate for a person who graduated from an accredited nursing program in Ontario in or after 2008
- (b) for 26 weeks from the date on which the New Graduate Nurse began to

work with the Employer;

- (c) for up to 37.5 hours per week or such lesser number of hours that the Employer considers to be full-time practice in the specialty or sector; and
- (d) to include as benefits, an amount not to exceed 24% of the New Graduate Nurse's salary according to the Employer's usual benefits formula.

5.3 Deposit. The Ministry shall:

- (a) when the Ministry receives a Confirmation Letter, provide 80% of the Funds to the Employer in installments in such amounts and at such times to be determined by the Ministry;
- (b) when the Employer submits the final Report, reconcile the amount of Funds it provided to the Employer with the amount of Funds the Employer actually needed, and used, in accordance with the terms of the Agreement;
- (c) based on the reconciliation the Ministry carries out pursuant to subsection 5.3(b):
 - (i) provide to the Employer up to the remaining 20% Funding provided for in the Budget; or
 - (ii) demand from the Employer the repayment of Funds in accordance with Article 14; and
- (d) deposit all Funds to be provided under the Agreement directly into an account designated by the Employer.

5.4 Funding Not Cumulative. For purpose of clarity, all Funding described in the Budget shall be one-time funding for each individual New Graduate Nurse and shall not be interpreted to be repeated Funding despite the fact that the Ministry shall provide a new Budget each time the Employer retains another New Graduate Nurse.

5.5 Use of Funds. The Employer shall use the Funds only to remunerate and provide benefits for New Graduate Nurses and shall provide each New Graduate Nurse the amounts specified in the Budget for such New Graduate Nurse.

5.6 Despite Section 5.5. Despite Section 5.5, if the Employer moves the New Graduate Nurse into a permanent full-time position after the New Graduate Nurse has worked in the Supernumerary Position for a period of 12 weeks, the Ministry shall continue to flow the Funding provided for in the Budget for such

New Graduate Nurse and the Employer may use the Funding for Other Nursing Initiatives.

- 5.7 **Appropriation.** Despite Section 5.3 and pursuant to the provisions of the *Financial Administration Act*, R.S.O. 1990, c. F.12 as amended, if the Ministry is unable to secure a requisite appropriation from the Legislature for any payment the Ministry is obligated to make under the Agreement, the Ministry shall not be obligated to make the payment.

ARTICLE 6 INTEREST

- 6.1 **Account.** The Employer shall place the Funds in an interest bearing account and shall, at the request of the Ministry, account to the Ministry on the interest earned on the Funds.
- 6.2 **Use and Ownership.** All interest earned on the Funds belongs to the Ministry. The Employer shall use the interest only for the purposes authorized in writing by the Ministry, or shall pay the interest to the Ministry immediately on the request of the Ministry.

ARTICLE 7 CONFLICT OF INTEREST

- 7.1 **No Conflict.** The Employer shall carry out the Program and use the Funds in such a manner that no Person associated with the Program in any capacity shall have a potential or actual conflict of interest.
- 7.2 **Conflict of Interest Includes.** For these purposes, a conflict of interest includes a situation in which a Person associated with the Program or any member of his or her family is able to benefit financially from his or her involvement in the Program. Nothing in this Article prevents the Employer from reimbursing its volunteers for their reasonable out of pocket expenses incurred in connection with the Program.
- 7.3 **Disclosure by Employer.** The Employer shall disclose to the Ministry without delay any situation that may be reasonably interpreted as either an actual or potential conflict of interest.

ARTICLE 8 FURTHER CONDITIONS

- 8.1 **Additional Terms.** The Ministry may impose such additional terms and conditions on the use of the Funds that it considers appropriate for the proper

expenditure and management of the Funds and the carrying out and completion of the Program.

- 8.2 **Terms and Conditions on Consent.** The Ministry may impose any terms or conditions on any consent that the Ministry may grant pursuant to the Agreement.

ARTICLE 9 REPORTING, ACCOUNTING AND REVIEW

- 9.1 **Preparation and Submission of Reports.** The Employer shall:

- (a) submit such Reports as the Ministry may request from time to time, on the dates specified by the Ministry;
- (b) prepare its Reports containing the content, using the forms, and/or using internet resources, specified or required by the Ministry from time to time;
- (c) ensure that all Reports are completed to the satisfaction of the Ministry;
- (d) ensure that all Reports are signed on behalf of the Employer; and
- (e) ensure that all Reports are verified by all applicable collective bargaining units.

- 9.2 **Notice to Employer.** The Ministry shall provide reasonable Notice to the Employer of the revisions to, and the addition of, any Reports required pursuant to this Article.

- 9.3 **Records Maintained.** The Employer:

- (a) shall keep and maintain all financial records, invoices and other financially-related documents relating to the Funds or otherwise to the Program in a manner consistent with generally accepted accounting principles and clerical practices;
- (b) shall maintain such records and keep them available for review by the Ministry for a period of seven (7) years from the date of the expiry or termination of the Agreement; and
- (c) shall maintain all non-financial documents and records relating to the Funding or otherwise to the Program, including any records it receives about the people it serves, in a confidential manner consistent with all Applicable Law.

- 9.4 **Review.** The Ministry or its authorized representatives may, upon twenty-four hours' Notice to the Employer and during normal business hours:
- (a) enter upon the Employer's premises to review the status and manner of operation of the Program;
 - (b) inspect and copy any financial records, invoices and other financially-related documents in the possession or under the control of the Employer that relate to the Funds or otherwise to the Program;
 - (c) inspect and copy non-financial records in the possession or under the control of the Employer that relate to the Funds or otherwise to the Program, except that where such records relate to a third party served by the Program, the Ministry shall obtain the consent of the third party before inspecting or copying such records; and
 - (d) conduct a full or partial audit of the Employer in respect of the Program.
- 9.5 **Exercise of Rights.** The purposes for which the Ministry may exercise its rights under this Article include:
- (a) determining for what items and purposes the Employer expended the Funds;
 - (b) determining whether and to what extent the Employer expended the Funds with due regard to economy and efficiency; and
 - (c) determining whether the Employer completed the Program effectively and in accordance with the terms of the Agreement.
- 9.6 **Employer to Provide.** To assist the Ministry in respect of the exercise of the Ministry's rights set out in Section 9.4, the Employer shall:
- (a) disclose to the Ministry all Personal Information requested by the Ministry pursuant to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 c. F 34;
 - (b) disclose all Personal Health Information to the Ministry as requested by the Ministry pursuant to clauses 38(1)(b), 39(1)(b), 43(1)(b), 43(1)(g), and 43(1)(h), of the *Personal Health Information Protection Act*, S.O. 2004, c.3. Schedule A; and
 - (c) provide any information to the Ministry reasonably requested by the Ministry.

- 9.7 **No control of Records.** No right conferred upon the Ministry under the Agreement nor any provision of the Agreement shall be construed so as to give the Ministry any control whatsoever over the Employer's records.

ARTICLE 10 CREDIT

- 10.1 **Acknowledgement.** The Employer shall acknowledge the support of the Ministry in all reports, materials, advertising and publicity related to the Program in a format approved by the Ministry.
- 10.2 **Not Views of Ministry.** The Employer shall acknowledge in any report or materials related to the Program that the views expressed in the report or materials are the views of the Employer and do not necessarily reflect those of the Ministry.

ARTICLE 11 LIMITATION OF LIABILITY

- 11.1 **Limitation of Liability.** The Indemnified Parties shall not be liable to the Employer or any of the Employer's personnel for costs, losses, claims, liabilities and damages howsoever caused (including any incidental, indirect, special or consequential damages, injury or any loss of use or profit of the Employer) arising out of or in any way related to the Program or otherwise in connection with the Agreement, unless caused by the gross negligence or wilful act of the Ministry's officers, employees and agents.

ARTICLE 12 INDEMNITY

- 12.1 **Indemnification.** The Employer hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively "**Claims**"), by whomever made, sustained, brought or prosecuted, including for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Employer, its subcontractors or their respective directors, officers, agents, employees or independent contractors in the course of performance of the Employer's obligations under, or otherwise in connection with, the Agreement. The Employer further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or

consequential damages, or any loss of use, revenue or profit, by any Person, including without limitation the Ministry, claimed or resulting from such Claims.

ARTICLE 13 INSURANCE

13.1 **Commercial General Liability Insurance.** The Employer shall put into effect and maintain, with insurers acceptable to the Ministry, for the period during which the Agreement is in effect, at its own expense the following insurance:

- (a) Commercial General Liability Insurance, for third party bodily injury, personal injury and property damage to an inclusive limit of not less than two million dollars per occurrence and not less than two million dollars products and completed operations aggregate. The policy shall include the following clauses:
 - (i) Her Majesty the Queen in Right of Ontario, her Ministers, appointees and employees as additional insureds;
 - (ii) Contractual Liability;
 - (iii) Products and Completed Operations Liability;
 - (iv) A valid WSIB Clearance Certificate, or Employers Liability and Voluntary Compensation, which ever applies;
 - (v) Tenants Legal Liability (*for premises/building leases only*);
 - (vi) Non-Owned automobile coverage with blanket contractual and physical damage coverage for hired automobiles; and
 - (vii) A thirty day written Notice of cancellation.

13.2 **Malpractice Protection.** The Employer shall maintain malpractice protection for the Nurse, as would any prudent organization carrying out the Program.

13.3 **Certificates of Insurance.** The Employer shall provide the Ministry with certificates of insurance, or other proof as may be requested by the Ministry that confirms the insurance coverage and malpractice protection required in Sections 13.1 and 13.2.

ARTICLE 14
TERMINATION AND FUNDING REPAYMENT

- 14.1 Termination For Convenience.** The Ministry may terminate the Agreement at any time, for any reason, upon giving at least thirty days Notice to the Employer.
- 14.2 Termination Where No Appropriation.** If the Legislature fails to make a sufficient appropriation to enable the Employer to operate the Program, the Ministry may terminate the Agreement immediately upon giving Notice to the Employer.
- 14.3 Consequences of Termination for Convenience or No Appropriation.** Upon termination of the Agreement pursuant to Section 14.1 or 14.2, the Ministry shall:
- (a) cease to provide any further Funding to the Employer; and
 - (b) demand the repayment of any Funds remaining in the possession or under the control of the Employer.
- 14.4 Immediate Termination by Ministry.** The Ministry may terminate the Agreement immediately upon giving Notice to the Employer if:
- (a) in the opinion of the Ministry:
 - (i) the Employer has knowingly provided false or misleading information regarding its Funding request or in any other communication with the Ministry;
 - (ii) the Employer breaches any material term or condition of the Agreement, unless the breach was caused by a circumstance of Force Majeure as provided for in Article 22;
 - (iii) the Employer is unable to complete or has discontinued the Program; or
 - (iv) it is not reasonable for the Employer to continue to carry out the Program;
 - (b) the Employer makes an assignment, proposal, compromise, or arrangement for the benefit of creditors, or is petitioned into bankruptcy, or files for the appointment of a receiver; or
 - (c) the Employer ceases to carry on business.
- 14.5 Opportunity to Remedy.** If the Ministry wishes to terminate the Agreement pursuant to clause 14.4(a)(ii) and it considers that it is appropriate to permit the

Employer an opportunity to remedy a breach, the Ministry shall notify the Employer:

- (a) of the particulars of the breach; and
- (b) of the period of time within which the Employer is required to remedy the breach.

14.6 Employer not Remediating. If the Ministry has provided the Employer with an opportunity to remedy the breach pursuant to Section 14.5, and:

- (a) the Employer does not remedy the breach within the time period specified in the Notice; or
- (b) it becomes apparent to the Ministry that the Employer cannot completely remedy the breach within the time specified in the Notice or such further period of time as the Ministry considers reasonable; or
- (c) the Employer is not proceeding to remedy the breach in a way that is satisfactory to the Ministry,

the Ministry may immediately terminate the Agreement by giving Notice of termination to the Employer.

14.7 Consequences of Termination for Employer Breach. Upon termination of the Agreement pursuant to Section 14.4 or 14.6, the Ministry shall:

- (a) cease to provide any further Funding to the Employer;
- (b) demand the repayment of any Funds remaining in the possession or under the control of the Employer; and
- (c) demand the repayment of an amount equal to any Funds the Employer used for purposes not agreed upon by the Ministry.

14.8 Effective Date. The effective date of any termination under this Article shall be the last day of the Notice period, the last day of any subsequent Notice period or immediately, which ever applies.

14.9 Funding at the End of a Funding Year. If, in any Funding Year, the Employer has not spent all of the Funds allocated for the Funding Year as provided for in the Budget, the Ministry may:

- (a) demand the repayment of the unspent Funds and the Employer shall repay them immediately in accordance with Article 15; or
- (b) adjust the amount of any future Funding instalments accordingly.

14.10 Debt Due. If the Ministry demands the payment by the Employer of any Funds or interest on the Funds pursuant to this Article, the amount demanded shall be deemed to be a debt owing to the Ministry by the Employer, and the Employer shall pay the amount to the Ministry immediately unless the Ministry directs otherwise.

14.11 Interest Rate. The Ministry may charge the Employer interest on any amount owing by the Employer at the then current interest rate charged by the Province of Ontario on accounts receivable.

14.12 Cheque Payable To. The Employer shall pay any amounts owing to the Ministry by cheque payable to the "Ontario Minister of Finance" and mailed to the Ministry at the address provided in Section 15.1.

**ARTICLE 15
NOTICES**

15.1 Form of Notice. Any Notice shall be:

- (a) in writing;
- (b) delivered personally or by pre-paid courier, or sent by facsimile, certified or registered mail or postage pre-paid mail with receipt notification requested; and
- (c) addressed to the other Party as provided below or as either Party shall later designate to the other in writing:

To the Ministry:

Vanessa Burkoski
Provincial Chief Nursing Officer
Ontario Ministry of Health & Long-Term Care
56 Wellesley Street West, 12th Floor
Toronto, ON M5S 2S3
Tel: 416-327-9689
Fax: 416-327-1878

To the Employer:

<OE Sig Salutation> <FName> <L
Name>
<OE Sig Title>
<OE Legal Name>
<OE Address>
<OE City>, ON <OE Postal Code>

15.2 Effective Time. All Notices shall be effective:

- (a) at the time the delivery is made if the Notice is delivered personally, by

pre-paid courier or by facsimile; or

- (b) 72 hours after the day the Notice was deposited in the mail if the Notice is sent by certified, registered or postage prepaid mail, unless the day the Notice is effective falls on a day when the Ministry is normally closed for business, in which case the Notice shall not be effective until the next day that is a day when the Ministry is normally open for business.

ARTICLE 16 SEVERABILITY OF PROVISIONS

- 16.1 **Deemed Severance.** The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement and any invalid or unenforceable provision shall be deemed to be severed.

ARTICLE 17 WAIVER

- 17.1 **Form of Waiver.** A waiver of any failure to comply with any term of the Agreement shall be in writing and signed by the Party providing the waiver. Any waiver must refer to a specific failure to comply and shall not have the effect of waiving any subsequent failures to comply.

ARTICLE 18 INDEPENDENT PARTIES

- 18.1 **Independence.** The Parties are and shall at all times remain independent of each other and are not and shall not represent themselves to be the agent, joint venturer, partner or employee of the other. No representations shall be made or acts taken by either Party which could establish or imply any apparent relationship of agency, joint venture, partnership or employment and neither Party shall be bound in any manner whatsoever by any agreements, warranties or representations made by the other Party to any other Person nor with respect to any other action of the other Party.

**ARTICLE 19
ASSIGNMENT OF AGREEMENT OR FUNDS**

- 19.1 **Consent Required.** The Employer shall not assign the Agreement or the Funds or any part thereof without the prior written consent of the Ministry.

**ARTICLE 20
GOVERNING LAW**

- 20.1 **Law of Ontario.** The Agreement and the rights, obligations and relations of the Parties hereto shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**ARTICLE 21
FURTHER ASSURANCES**

- 21.1 **Agreement.** The Parties agree to do or cause to be done all acts or things necessary to implement and carry into effect the Agreement to its full extent.

**ARTICLE 22
CIRCUMSTANCES BEYOND THE CONTROL OF EITHER PARTY**

- 22.1 **Force Majeure.** For the purposes of the Agreement, “**Force Majeure**” means an event that is:
- (a) beyond the reasonable control of a Party; and
 - (b) makes a Party’s performance of its obligations under the Agreement impossible or so impractical as reasonably to be considered impossible in the circumstances.
- 22.2 **Includes.** Force Majeure includes:
- (a) war, riots and civil disorder;
 - (b) storm, flood, earthquake and other severely adverse weather conditions;
 - (c) confiscation and other similar action by government agencies;
 - (d) lawful act by a public authority; and

- (e) strikes, lockouts and other industrial actions except where such strikes, lockouts and other industrial actions are within the power of the Party invoking Force Majeure to prevent,

if such events meet the test set out in Section 22.1.

22.3 **Not Included.** Force Majeure shall not include:

- (a) any event that is caused by the negligence or intentional action of a Party or such Party's agents or employees;
- (b) any event that a diligent Party could reasonably have been expected to:
 - (i) take into account at the time of the execution of the Agreement; and
 - (ii) avoid or overcome in the carrying out of its obligations under the Agreement; or
- (c) the insufficiency of funds or failure to make any payment required hereunder.

22.4 **Not Breach.** The failure of either Party to fulfil any of its obligations under the Agreement shall not be considered to be a breach of, or default under, the Agreement to the extent that such failure to fulfil the obligation arose from an event of Force Majeure, if the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of the Agreement.

22.5 **Requirements.** If either Party is affected by an event of Force Majeure, the affected Party shall:

- (a) notify the other Party of such event as soon as possible, and in any event not later than 14 calendar days after the occurrence of such event, providing evidence of the nature and cause of such event;
- (b) take all reasonable measures to minimize the consequences of any event of Force Majeure;
- (c) take all reasonable measures to fulfil its respective obligations under the Agreement with a minimum of delay; and
- (d) if normal conditions are restored, give Notice of the restoration of normal conditions as soon as possible.

- 22.6 **Time Period Extended.** Any period within which a Party is required, pursuant to the Agreement, to complete any action or task shall be extended for a period equal to the time during which such Party was unable to perform such action or task as a result of Force Majeure.

ARTICLE 23 SURVIVAL

- 23.1 **Provisions Survive.** The provisions in Article 1 (Definitions), Article 6 (Interest), Sections 9.3, 9.4, 9.5, 9.6, 9.7 (Reporting, Accounting and Review), and Articles 10 (Credit), 11 (Limitation of Liability), 12 (Indemnity), Sections 14.3, 14.7, 14.9,, 14.11, 14.12, 14.13 (Termination and Funding Repayment) and 15 (Notices) shall survive for a period of seven years from the date of termination of the Agreement and Sections 9.1 and 9.2 shall survive for a period of one year from the date of termination of the Agreement.

ARTICLE 24 SCHEDULES-CLIENT TO AMEND SCHEDULES

- 24.1 **Attached Schedules.** The following are the schedules attached to and forming part of the Agreement:
- (a) Schedule "A" (Program Description); and
 - (b) Schedule "B" (Budget).

ARTICLE 25 ENTIRE AGREEMENT

- 25.1 **Entire Agreement.** The Agreement together with the attached schedules listed in Section 24.1 of the Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral and written representations and agreements.
- 25.2 **Modification.** The Agreement may only be modified by a written agreement duly executed by the Parties.

ARTICLE 26
COUNTERPARTS

26.1 **Execution.** The Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

THE UNDERSIGNED PARTIES have entered into the Agreement on the date the Agreement is signed on behalf of the Ministry.

**HER MAJESTY THE QUEEN IN RIGHT
OF ONTARIO as represented by the Minister of Health and
Long-Term Care**

<MOH Sig Salutation> <FName> <LName> <Date E-Signed>
<MOH Signatory Title> Date

<OE Legal Name>

<OE Sig Salutation> <FName> <LName> <Date E-Signed>
Signature, Authorized Signing Officer Date

<OE Sig Title>

Print Title of Authorized Signing Officer

I have the authority to bind the Employer.

<SNL Sig Salutation> <FName> <LName> <Date E-Signed>
Signature, Senior Nursing Leader Date

<SNL Sig Title>

Print Title of Senior Nursing Leader

I have the authority to bind the Employer.

SCHEDULE “A”

Attached to and forming part of Agreement No. NGG-08-**<IFIS Number>** between the Ministry and the recipient.

PARTICIPATION GUIDELINES

Health**Force**Ontario

Guidelines for Participation in the Nursing Graduate Guarantee for 2008 New Graduate Nurses

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Nursing Secretariat
Ministry of Health and Long-Term Care

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Program Overview

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Program Overview

The Nursing Graduate Guarantee

The Nursing Graduate Guarantee is designed to support every new Ontario nursing graduate (RN and RPN) in finding full time employment immediately upon graduation.

The Nursing Graduate Guarantee is a comprehensive strategy designed to build capacity within the health care system for nursing workforce planning and management. It is part of the HealthForceOntario, which is the province's strategy to ensure that Ontarians have access to the right number and mix of qualified healthcare providers, now and in the future.

Definition of a New Graduate Nurse

“New Graduate Nurse” means a person who has graduated from an Ontario accredited nursing program on or after January 1, 2008, for the period of time that the Ontario Ministry of Health and Long-Term Care (MOHLTC) continues to implement the Nursing Graduate Guarantee.

The Goals of the Initiative

This initiative seeks to:

- Provide every New Graduate Nurse with the opportunity to obtain full time employment in Ontario;
- Promote the availability of permanent full time positions for New Graduate Nurses;
- Facilitate “matching” between New Graduate Nurses and Employers;
- Create bridging positions for New Graduate Nurses;
- Support Ontario's New Graduate Nurses as they transition to practice;
- Improve integration of New Graduate Nurses into the workforce;
- Promote retention among Ontario's New Graduate Nurses;
- Facilitate recruitment to all sectors;
- Transform Employer practices to maximize availability of full time nursing positions for all nurses;
- Increase the total supply of nurses in Ontario by providing full time employment to nurses who may otherwise seek employment in other jurisdictions or professions.

How It Works

The Nursing Graduate Guarantee will use the Online **Nursing Graduate Portal** to link New Graduate Nurses with Employers (www.healthforceontario.ca).

MOHLTC will provide funding for temporary, full time, above staffing complement positions for 26 weeks for New Graduate Nurses who are matched with Employers with the expectation that these bridging positions will lead to permanent full-time employment for participating New Graduate Nurses.

Accordingly, after a minimum period of 12 weeks, but within 26 weeks, the MOHLTC expects the Employer will hire the New Graduate Nurse into a permanent full time position unless the Employer considers the New Graduate Nurse to be unsuitable for employment (taking into consideration any applicable collective agreement requirements). If the Employer chooses to terminate the employment agreement with the New Graduate Nurse prior to the end of their obligations, the Employer must return the balance of funds to the MOHLTC.

Employers must commit to funding an additional six-week, full time, above staffing complement position for the New Graduate Nurse where the New Graduate Nurse is not bridged into permanent full time employment within 26 weeks.

The bridging position will provide the New Graduate Nurses with an extended orientation that meets minimum requirements, as set out in Appendix "A", and valuable job experience. New Graduate Nurses will be paid sector-appropriate wages, based on the rates negotiated between the Employer and the applicable collective bargaining unit, and based on the starting salary for a New Graduate Nurse at the Employer's organization, as applicable, including up to 24% benefits.

Employers are expected to commit to best efforts to bridge the New Graduate Nurse to permanent full time employment. Employers must submit a plan providing an outline of how they expect to bridge the New Graduate Nurse. MOHLTC will work with Employers and others to develop additional comprehensive strategies to raise the level of full time employment for all nurses in the health care system.

Where the New Graduate Nurse is hired into a permanent, full time position during the 26 weeks bridging position (but after the initial 12 weeks), the Employer may use the balance of the funds for other nursing initiatives. Appendix "B", attached, lists eligible nursing initiative expenses.

Need Help?

For further information regarding the Nursing Graduate Guarantee, please visit www.healthforceontario.ca or contact the HealthForceOntario Info Line at **1-866-989-9699** (TTY **1-800-387-5559**).

Eligibility and Matching Process

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Eligibility and Matching Process

Eligibility for Participation for New Graduate Nurses

Participation in the Nursing Graduate Guarantee is open to all Ontario New Graduate Nurses provided that they register on the Online Nursing Graduate Portal within six months of course completion (date after which final grades have been received).

Eligibility for Employers

The Nursing Graduate Guarantee is open to all sectors including Hospital, Long-Term Care, Home Care, Mental Health, Public Health, and Primary Care provided they register on the portal.

An **Employer** must:

- be a health care organization that employs nurses and is funded by the government of Ontario for the provision of nursing services; and,
- has the infrastructure to support successful implementation of the initiative. This may include physical infrastructure, nursing education or professional development initiatives and management supports.

Matching Process for New Graduate Nurses

To be eligible to participate in the Nursing Graduate Guarantee, the New Graduate Nurse must use the Online Nursing Graduate Portal (accessible at <http://www.healthforceontario.ca>) and follow the matching process outlined below:

Step 1: Registration

The New Graduate Nurse must register on the Nursing Graduate Portal by accessing <http://www.healthforceontario.ca> and following the “New Ontario Nursing Graduates - REGISTER HERE” link.

Step 2: Nursing Graduate Portal Matching

The New Graduate Nurse must use the portal to find an Employer “match” by:

1. Consulting the Online Nursing Graduate Portal job registry regularly and applying to positions offered on the portal by Employers within 6 months of the New Graduate Nurse’s course completion date (date after which final grads have been received);
2. Confirming each month by reply e-mail that the New Graduate Nurse remains interested in being matched with an Employer;

3. Completing the Employer's interviewing process, where the Employer selects the New Graduate Nurse candidate for an interview;
4. Accepting such bridging position through the Nursing Graduate Portal, where the New Graduate Nurse is offered a bridging position. Please Note: New Graduate Nurses have 72 hours to cancel acceptance of the job offer. Once the 72 hour cancellation period has passed and there has been no notice of cancellation from the New Graduate Nurse, it will be assumed that both the Employer and the New Graduate Nurse have agreed to the match and that a match has been made; and,
5. Updating contact information (including email address) if it changes.

Step 3: Obtain Temporary Registration

The New Graduate Nurse must receive Temporary Registration with the College of Nurses of Ontario before commencing employment. For more information on the requirements for Temporary Registration visit the CNO website at <http://www.cno.org>.

Matching Process for Employers

To be eligible for funding, the Employer must follow the process outlined below:

Step 1: Matching Process

The Employer must:

1. Register on HFOJobs by accessing the job portal through <http://www.healthforceontario.ca>;
2. Post New Graduate Nurse bridging positions by completing the job posting and specifying that it is a New Graduate Nurse bridging position;
3. Follow the Employer's regular interview process with any New Graduate Nurse(s) who the Employer wishes to consider for a bridging position; and,
4. Provide any selected New Graduate Nurse with an offer for a temporary, full time, above staffing complement bridging position (that abides by any applicable collective agreement requirements) using the HFOJobs online portal.

The Ministry encourages early consultation with collective agreement representatives to ensure requirements are met.

Please Note: The New Graduate Nurse has 72 hours to cancel an accepted employment offer. Employers should not assume that the acceptance of the position is final and a match has been made until the 72 hour cancellation period has passed.

Step 2: Confirmation and Agreement

Once the New Graduate Nurse accepts a bridging position, the Nursing Graduate Portal will generate a form and the Employer must:

1. Submit the form to MOHLTC confirming the details of the offer;
2. Enter into a funding agreement with MOHLTC outlining the Employer's obligations under the Nursing Graduate Guarantee;
3. The New Graduate Nurse must apply to the College of Nurses of Ontario for Temporary Registration and cannot begin work until this has been confirmed; and,
4. The New Graduate Nurse must begin working within six months of course completion (that is, within six months of receiving final grades).

Step 3: Provide the Bridging Position

The Employer must provide the New Graduate Nurse with a bridging position that meets the following criteria:

- *Initial Twelve Weeks* - The New Graduate Nurse must be provided with an extended orientation above staffing complement for a minimum period of 12 weeks (during which the New Graduate Nurse cannot be bridged into a permanent, full time position). Orientation must meet minimum requirements, as specified in the attached Appendix "A";
- *Subsequent Fourteen Weeks* - Following the initial 12 weeks of the bridging position, the New Graduate Nurse must continue to be provided with an extended orientation above staffing complement for an additional 14 weeks, unless the New Graduate Nurse is bridged to a permanent, full time position at an earlier date (but after the initial 12 weeks);
- *Additional Employer-Funded Six-Weeks* - Where the New Graduate Nurse is **not hired** into a permanent, full time position within or immediately following the 26 weeks bridging position, **the Employer must fund and provide a six-week, full time position above staffing levels.**
- *Suspension of Funding Following Failure of Examination* - Where the New Graduate Nurse does not successfully pass the applicable Canadian Registered Nurse Examination or Canadian Practical Nurse Registration Examination on his/her first attempt, **the Ministry will suspend the New Graduate Nurse's funding under the Nursing Graduate Guarantee;**

- *Continuation of New Graduate Nurse Funding After Passes Subsequent Examination Subject to Any Applicable Collective Agreement Requirements-* Where the Ministry suspended funding for the New Graduate Nurse's participation in the Nursing Graduate Guarantee because the New Graduate Nurse did not pass his or her first attempt of the Examination, the Ministry may continue funding the New Graduate Nurse if he or she subsequently passes the second or third attempt at the Examination and if the Employer has an available Supernumerary Position;
- *Termination of Funding Following Failure of Examination* – Where the New Graduate Nurse does not successfully pass the applicable Canadian Registered Nurse Examination or Canadian Practical Nurse Registration Examination on his/her third attempt, **the Ministry funding for the New Graduate's participation in the Nursing Graduate Guarantee will be terminated.**

Step 4: Hire the New Graduate Nurse into a Permanent, Full time Position

The MOHLTC expects the Employer to make best efforts to hire the New Graduate Nurse into a permanent, full time position, during the period of the bridging position or during the Employer-funded six-week supernumerary position, unless the Employer considers the New Graduate Nurse to be unsuitable for employment (taking into consideration any applicable collective agreement requirements).



Funding and Reporting Requirements

3

Funding and Reporting Requirements

Amount of Funding

MOHLTC Funding

MOHLTC will fund the 26 weeks of salary dollars for each New Graduate Nurse participating in the program. Should the New Graduate Nurse be bridged to a permanent full time position after 12 weeks but prior to 26 weeks, the Employer may use the remainder of the funds for certain other nursing initiatives, as further described in the attached Appendix "B".

Employer Funding

Where the New Graduate Nurse is not bridged to a permanent full time position during the 26 weeks, MOHLTC-funded period, the Employer must fund a period of full time, above staffing employment which must continue until the earliest of: (i) the date the New Graduate Nurse is hired into a permanent, full time position; or (ii) six weeks from the date the MOHLTC-funded bridging position ended.

Use of Funds

The Employer must use the funds provided under the Nursing Graduate Guarantee as follows:

Funds for the Initial 12 Week Period

The funds applicable to the initial 12 week period must be used to provide salary dollars and benefits for the New Graduate Nurse. These funds may not be used for salary costs of nurse educators and/or coordinators or mentors, or for similar purposes.

Funds for the Period Following Initial 12 Weeks

Where the New Graduate Nurse **is not hired** into a permanent, full time position **during the 26 weeks bridging** position, the funds equivalent to salary dollars and benefits for this period must be used for the purpose of providing such salary dollars and benefits. These funds may not be used for the salary costs of nurse educators and/or coordinators or mentors, or for similar purposes.

Where the New Graduate Nurse **is hired** into a permanent, full time position during the 26 week bridging position (but after the initial 12 weeks), the Employer may use the balance of the funds (equivalent to the salary dollars and benefits which

would have funded the remaining period of the bridging position) for other nursing initiatives. Appendix “B”, attached, lists eligible nursing initiative expenses.

Please note that any applicable re-investment funds for new graduates who have been hired into permanent full-time positions must be spent by the end of each funding year (March 31st) or these funds will be subject to recovery by the ministry.

How Funds Will Be Provided

MOHLTC will provide the applicable funds as follows:

- 80% of the applicable funds will be provided to the eligible Employer by direct deposit following the receipt by MOHLTC of the executed funding agreement if the start date of New Graduates hired by the Employer is between the months of April to mid-October.
- if the start date of the New Graduate is between mid-October to March, the percentage of funding flowed will be gradually deferred (at approximately 10% for every month) to account for the amount of funds that can be spent by the end of the fiscal year (March 31st). The outstanding funding as it applies to the first 80% installment will be flowed in the next fiscal year; and,
- provide to the Employer up to the remaining 20% of the applicable funds once the Employer meets all the reporting requirements to the satisfaction of MOHLTC.

Reporting Requirements for Employers Receiving Funding

Employers who receive funding under the Nursing Graduate Guarantee will be required to demonstrate accountability for use of the funds.

The funding agreement will outline the terms and conditions for the use of the approved funds and will stipulate the reporting requirements of the Employer, including the completion of a final report.

Reports will require the verification of any applicable RN/RPN collective bargaining representative(s).

The Ministry strongly recommends early consultation with collective bargaining representatives and ongoing dialogue in order to ensure their ability to comply with this requirement.

Failure to obtain verification from collective bargaining representatives will result in the suspension of the final balance payment until the Ministry has received a complete final report or a suitable explanation of the variance.



Appendices

Appendix “A”

Minimum Requirements for Orientation

The minimum orientation requirements for the Nursing Graduate Guarantee initiative are as follows:

- Organizations must provide New Graduate Nurses with a minimum of 12 weeks orientation including a minimum of 3 to 6 days of general orientation to the organization.
- The organization must clearly define the roles of the New Graduate Nurse, mentor and orientation leader.
- A learning plan must be developed by the New Graduate Nurse and mentor, with input from the orientation leader, and should be used to monitor the New Graduate Nurse’s progress and to guide evaluation.
- Orientation to meet goals of the learning plan should include a variety of teaching strategies and delivery methods to educate on competencies.

Appendix “B”

Eligible Re-investment Initiatives for the Nursing Graduate Guarantee

I. Intraprofessional Mentorship and Preceptorship Programs

Funding may be used for intraprofessional (nurse to nurse) mentorship and/or preceptorship programs.

Definitions of Mentorship and Preceptorship for the Nursing Graduate Guarantee

Mentorship is a formal supportive relationship between two, or more, health professionals that has the potential to result in professional growth and development for both mentors and mentees. Mentorship helps to maximize a person’s professional practice. While it is often used to support the transition of new graduates, preparing them for the realities of the workforce, it may occur at any stage in a person’s career. Outcomes of mentorship may include enhanced critical thinking and leadership capacity, improved self esteem and confidence, career enrichment and improved job satisfaction. A mentorship program is an initiative that has formal structures in place, which promotes and supports the relationship between a mentor and mentees.

Preceptorship is a formal supportive relationship between health professionals and students. These relationships are established to support the preceptee in achieving specific learning objectives, usually tailored to the acquisition of knowledge and skills specific to their practice setting. Potential outcomes of a preceptorship include: skill and knowledge acquisition, anxiety reduction, and professional socialization. A preceptorship program is an initiative that has formal structures in place that supports the relationship between a preceptor and a student preceptee.

II. 80/20 For Staff Nurses

Funding may be used to back-fill staff nurses, allowing them to spend 20% of their time on professional development opportunities (e.g. work on nursing councils, patient teaching, research, education). The remaining 80% of their time would be spent in clinical practice.

III. Internships for Experienced Nurses in Specialty Areas

Funding may be used to allow more experienced nurses to spend time in a supernumerary internship in a specialty area to assist them in gaining the knowledge and skills required to fill present and potential vacancies.

IV. Initiatives to Support Internationally Educated Nurses (IENs) who are Registrants in Ontario and Nurses Re-Entering the Workforce

Funding may be used to help IENs who are currently registered in Ontario transition into the nursing workforce.

Funding may be used for extended orientation for nurses who are currently registered in Ontario and re-entering the nursing workforce.

SCHEDULE “B”

Attached to and forming part of Agreement No. NGG-08-**<IFIS Number>** between the Ministry and the recipient

BUDGET